

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
The Future of Media and Information Needs) GN Docket No. 10-25
Of Communities in a Digital Age)
)
)

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

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SUMMARY

To determine the needs of minority consumers in a rapidly changing media landscape, the Commission should examine the extent to which minorities access and use a variety of information platforms and whether, from the perspective of marginalized groups, information is presented in a culturally relevant context.

Numerous discriminatory industry practices, combined with the Commission's non-enforcement of civil rights regulations, have given us a media industry in which programming is directed almost exclusively toward either attracting or promoting the lifestyles and values of nonminority consumers. Traditional media programming uniformly elevates one dominant cultural paradigm while debasing and ignoring almost all others. The current digital and online media landscape reflects these trends. The Commission has the power to change some of these practices by enforcing its advertising non-discrimination and equal employment opportunity rules. The Commission should also act on the dozens of pending diversity proposals.

One of the emerging policy issues in the media industry is the underdevelopment of minority talent in science and technology. The Obama Administration is pursuing several initiatives to increase the quality of STEM education. These initiatives will increase the expression of innovation among marginalized groups.

MBEs and minority institutions must be key participants in media policy. The vision of ubiquitous broadband in the United States will not be served without substantially more funding from Congress and the private sector, in partnership with minority businesses and minority serving institutions that are ideally situated to increase broadband adoption and use.

I. The Information Needs Of The Public Are Not Adequately Served By Media And Technology Companies That Exclude Minorities

A. The Information Needs Of Minorities

Presently and throughout the history of the media, neither traditional nor new media content adequately have reflected minority perspectives. Traditional media have long presented nonminority, middle-class culture as the ideal. Some have maintained that the result is a cultural hegemony promoting assimilation rather than individuality.¹ Minorities, if they appear in the media at all, are often associated with negative stereotypes.² As the National Hispanic Media Coalition *et al.* discusses in Comments in this docket, the media routinely cast Latinos in a negative light.³ African-Americans have more often been depicted in the media through

¹ See bell hooks, *Killing Rage* (2005) at 110 (“Eurocentric biases taught to blacks in the educational system were meant to socialize us to believe in our inherent inferiority, it was ultimately the longing to have access to material rewards granted whites (the luxury represented in advertising and television) that was the greatest seduction. Aping whites, assimilating their values, (*i.e.* white supremacist attitudes and assumptions) was clearly the way to achieve material success. And white supremacist attitudes were projected into our living rooms, into the most intimate spaces of our lives by mass media. Gone was any separate space apart from whites where organized militant resistance could emerge. Even though most black communities were and remain segregated, mass media bring white supremacy into our lives, constantly reminding us of our marginalized status.”) See also *Office of Communication of the United Church of Christ v. Federal Communications Commission*, 359 F.2d 994 (D.C. Cir. 1966) (reversing the license renewal of WLBT-TV, Jackson, MS.)

² See generally Carolyn M. Byerly, *et al.*, Localism and the Ethnic Minority News Audience, available at http://www.allacademic.com/meta/p_mla_apa_research_citation/1/6/9/3/4/p169340_index.html (last visited April 26, 2010).

³ See Comments of the National Hispanic Media Coalition *et al.*, *In the Matter of The Future of Media and Information Needs of Communities in a Digital Age*, GN Docket No. 10-25, filed May 7, 2010 (“NHMC Comments”) at Section B(2) (quoting Comments of Office of Communication, United Church of Christ, Inc., National Organization for Women, Media Alliance, Common Cause and Benton Foundation at 10-12, 13-14, 2006 *Quadrennial Regulatory Review et al.*, MB Dkt. No. 06-121 *et al.* (Oct. 23, 2006) (“IPR Diversity Comments”) (“A report prepared for the

associations with crime, entertainment, or sports than they have been associated with topics such as economics, foreign affairs or electoral politics.⁴ Even those who have access to the Internet, and thus benefit from its ability to provide hyper-targeted information, still encounter a medium where little of the most popular, mass appeal Internet content is produced by minorities.⁵ Further, those without Internet access, or who have not adopted the Internet, remain beholden to traditional media.⁶ The touchstone of the information needs of minorities is thus whether

National Association of Hispanic Journalists (NAHJ) found that Latinos are under-represented on network news and even when they are seen, the coverage is often negative and one-sided” (citing Daniela Montalvo and Joseph Torres, *Network Brownout Report 2006: The Portrayal of Latinos & Latino Issues on Network Television News*, 19 (2006) (“Brownout 2006”).

⁴ See *id.* (quoting IPR Diversity Comments “A study of network news by Entman and Rojecki found that the range of topics attributed to Black interviewees was quite limited. The study examined videotapes of four randomly chosen weeks of evening news from the ABC, CBS, and NBC networks in 1997. The study found that White people were given 1,289 total “sound bites” in the sample, while Black people had a mere 95. In the sample, only one Black person said anything in an economics story, compared with 86 sound bites for Whites. Only one said anything in story on foreign affairs, compared with 99 White sound bites. White voices were heard 79 times on electoral politics, whereas not one Black person said anything on the subject. The disparities were almost as great in any other area that either ‘invoked the common experiences or interests of Americans as a whole (disasters, foreign affairs, politics, death/rituals),’ or that ‘involved technical expertise (science, economics).’ Black voices were much more common in stories dealing with entertainment, sports, or discrimination – topics already stereotypically associated with African Americans.”)

⁵ See, e.g. Technorati, Top 100 Blogs (reporting that the number of popular blogs written by members of a minority group is almost statistically insignificant; of the top 100 blogs listed, just two, Matthew Yglesias and Michelle Malkin, are written by minorities), available at <http://technorati.com/blogs/top100> (last visited May 2, 2010) (citing Robert M. Entman & Andrew Rojecki, *The Black Image in the White Mind: Media and Race in America* 62 (University of Chicago Press 2000). These samples were collected for a report commissioned by the President’s Initiative on Race. *Id.* at 246 n. 9.)

⁶ See *In the Matter of Petition for Rulemaking To Require Broadcast Licensees To Show Nondiscrimination In Their Employment Practices*, 13 F.C.C.2d 766 (1968) (quoting *Report of the National Advisory Commission on Civil Disorders* (1967) (“Kerner Commission Report”) “[T]he media -- have not communicated to the majority of their audience -- which is white -- a sense of the degradation, misery, and hopelessness of living in the ghetto. They have not communicated to whites a feeling for the difficulties and frustrations of being a Negro in the

information is being presented to minorities from a subjective point of view.⁷ However, even those outlets that are minority owned find it difficult to reach minority consumers.⁸ Overall, minority owned television stations reached just 30 percent of households occupied by people of color.⁹

All citizens have the same basic need to receive information about jobs, healthcare, government services, education, emergencies, opportunities for civic engagement, and news. The relevant inquiry is into the *degree* to which some minority and multilingual groups use different types of information and whether the information is presented in a relevant cultural context. For example, according to a recent Joint Center for Political and Economic Studies survey, 78% of Black Internet users indicated that they go online to look for employment information, compared to just 48% of White users.¹⁰ Twice as many Black Internet users went

United States. They have not shown understanding or appreciation of -- and thus have not communicated -- a sense of Negro culture, thought or history. And, in our judgment, the report makes clear that of all the media, broadcasting is the most important in this respect because it is most turned to by the ghetto.”)

⁷ *See id.*

⁸ *See* NHMC Comments at Section B(1) (citing S. Derek Turner & Mark Cooper, *Out of the Picture: Minority and Female TV Station Ownership in the United States* at 2-3 (2006) (“*Free Press Report*”), available at http://www.freepress.net/files/out_of_the_picture.pdf).

⁹ *See id.*

¹⁰ *See* John P. Gant, Nicol E. Turner-Lee, Ying Li, and Joseph S. Miller, National Minority Broadband Adoption: Comparative Trends in Adoption, Acceptance and Use, Joint Center for Political and Economic Studies (Feb. 2010) p. 21, available at http://www.jointcenter.org/publications1/publication-PDFs/MTI_BROADBAND_REPORT_2.pdf (last visited May 4, 2010) (“*Joint Center Broadband Adoption Report*”).

online to look for ideas on starting an online business.¹¹ Fifty-two percent of Black Internet users went online to look up religious or spiritual information, compared to 32% of Whites.¹²

The Commission's National Broadband Plan recommendations to promote ubiquitous home broadband access and adoption would provide consumers with the flexibility to customize their depth of engagement.¹³ However, government and industry must rise to the challenge of creating an online environment that is relevant and credible from the perspective not just of middle-class Americans, but also marginalized groups, especially low-income, less educated, and older non-adopters.¹⁴

B. Lack of Enforcement Of The Advertising Non-Discrimination Rule And EEO Regulations Perpetuates Discrimination In The Media

Federal authorities charged with preventing discriminatory advertising and employment practices should end their acquiescence in these practices. The Commission has adopted, but failed to enforce, a rule banning the use of unlawful no urban and no Spanish dictates (NUDs and NSDs, respectively) in the sale of broadcast advertising time.¹⁵ Further, a recent *San Jose*

¹¹ *See id.* (twenty-eight percent of Black Internet users went online for information to find information on finding a job.)

¹² *See id.*

¹³ *See Connecting America: The National Broadband Plan*, Federal Communications Commission (2010) pp. 168-185, available at <http://download.broadband.gov/plan/national-broadband-plan.pdf> (last visited April 5, 2010) (“*The National Broadband Plan*”).

¹⁴ *See generally Joint Center Broadband Adoption Report.*

¹⁵ *See Promoting Diversification of Ownership In the Broadcasting Services, Report and Order and Third Further Notice of Proposed Rulemaking*, MB Docket No. 07-294, 23 FCC Rcd 5922, 5941-42 ¶¶49-50 (released March 5, 2008) (“*Broadcast Diversity Order*”) (requiring broadcasters renewing their licenses to certify on Form 303-S that their advertising contracts do not discriminate on the basis of race or gender and that such contracts contain nondiscrimination clauses).

Mercury News (“*Mercury News*”) article revealed that “while the collective work force [of 10 of the largest companies in the Silicon Valley] grew by 16 percent between 1999 and 2005, an already small population of black workers dropped by 16 percent, while the number of Hispanic workers declined by 11 percent. By 2005, only about 2,200 of the 30,000 Silicon Valley-based workers at those 10 companies were black or Hispanic.”¹⁶ Five other large Silicon Valley companies spent two years pursuing an ultimately successful attempt to “persuade federal officials to block public disclosure” of the employment data they submitted to the federal government.¹⁷

In *Comcast Corp. v. FCC*, the court held that the Commission may exercise its ancillary authority only if the regulation is “reasonably ancillary to the . . . effective performance of its statutorily mandated responsibilities.”¹⁸ However, the Commission already has the authority to enforce the advertising non-discrimination rule and to enforce Equal Employment Opportunity (“EEO”) regulations with respect to broadcasters and cable systems.¹⁹ The EEOC has independent authority to enforce Title VII in technology-related companies not subject to the FCC’s jurisdiction. Thus, the Commission and other federal agencies have fallen short in pursuing the “low hanging fruit.”

¹⁶ See Mike Swift, Blacks, Latinos and women lose ground at Silicon Valley tech companies, *San Jose Mercury News*, (Feb. 13, 2010), available at http://www.mercurynews.com/search/ci_14383730?nclick_check=1 (last visited May 4, 2010).

¹⁷ See *id.*

¹⁸ See *Comcast Corp. v. FCC*, ___ F.3d ___, No. 08-129, slip op. at __ (D.C. Cir., April 6, 2010) (citing *Am. Library Ass’n v. FCC*, 406 F.3d 689, 692 (D.C. Cir. 2005)).

¹⁹ See *Memorandum of Understanding Between the FCC and EEOC* (1986), available at <http://www.eeoc.gov/policy/docs/mou-fcc.html> (citing 42 USC 2000e (1986) (“Title VII”) (citing 47 USC 151 et seq. (1986) (citing Pub. L. 98-549 (1986) (last visited May 4, 2010))).

C. Minorities Continue To Trail In Media Ownership

As the National Hispanic Media Coalition *et al.* discusses in its comments in this docket, the Commission has long recognized that the dearth of minority media owners in the United States is a serious problem warranting redress.²⁰ Promoting ownership diversity is a content-neutral means of advancing diversity of viewpoints. MMTC agrees with NHMC *et al.* that media consolidation and the paucity of minority media ownership have been contributing factors in a climate in which hate speech attains a position of respectability and sometimes dominance in the media environment. See NHMC Comments, pp. 11-16.

Although minority media owners stand to gain the most from robust media ownership rules, and minority media owners disproportionately suffer from media consolidation, media consolidation has become a routine practice that is “rapidly unfolding in all corners of the media industry.”²¹ Citing a 2006 study by Free Press, NHMC notes that while people of color composed 33 percent of the population and owned 18 percent of businesses overall,²² they owned just 3.26 percent of broadcast television stations.²³ Latinos represented 15 percent of the population but owned just 1.11 percent of television broadcast stations.²⁴ Blacks or African

²⁰ *See* NHMC Comments at Section B(1) (quoting *Section 257 Proceeding to Identify and Eliminate Entry Barriers for Small Businesses, Report*, 12 FCC Rcd 16802, 16831 (1997) (“there is a ‘long history of recognition by this agency, as well as by courts, Congress, and the public, that minorities and women have experienced serious obstacles in attempting to participate in the telecommunications industry [and] that their greater participation would enhance the public interest.’”))

²¹ *See id.* (citing Allen Hammond, *The Impact of the FCC’s TV Duopoly Rule Relaxation on Minority and Women Owned Broadcast Stations 1996 to 2006*, FCC (2007)).

²² *See id.* (citing Ying Lowrey, *Minorities in Business: A Demographic Review of Minority Business Ownership* (2007)).

²³ *See id.* (citing *Free Press Report* at 2-3.)

Americans comprised 13 percent of the entire population, but owned just 1.3 percent of broadcast television stations.²⁵ Asians comprised 4 percent of the population but owned 0.44 percent of all broadcast television stations in the United States.²⁶

NHMC also notes that 7%, for a total of 815, full power commercial broadcast radio stations were owned by people of color.²⁷ Of these, 139 are owned by Hispanics, 129 were African American owned, and 34 are owned by Asian-Americans.²⁸

Most of these minority media owners obtained licenses prior to the enactment of the Telecommunications Act of 1996, which opened the door to widespread consolidation.²⁹ Without effective policies, potential minority owners of digital media will fare far worse, as digital media subsectors are even more concentrated than the mass media.³⁰

²⁴ *See id.*

²⁵ *See Free Press Report* at 2.

²⁶ *See id.*

²⁷ *See* NHMC Comments at Section B(1) (citing Catherine J.K. Sandoval, *Minority Commercial Radio Ownership in 2009: FCC Licensing and Consolidation Policies, Entry Windows, and the Nexus Between Ownership, Diversity and Service in the Public Interest* at 13-14 (2009)).

²⁸ *See id.*

²⁹ *See id.*; *see also* Eli Noam, *Media Ownership and Concentration in America* (2009) (“Noam”) at 5 (“the top five mass media firms accounted together for about 13% of the mass media sector in 1984. By 2005, their share had doubled to 26%.”)

³⁰ *See* Noam at 5.

II. Efforts To Improve Academic Achievement Gaps And Increased Investment In Broadband Adoption Programs Are Promising

A. Current Programs To Improve Science, Technology, Engineering And Mathematics Education, If Successful, Have The Potential To Bring Additional Cultural Perspectives To The Media Industries

A recent article in *Wired* magazine discusses the history of the “hacker culture,”³¹ which led Microsoft, under the leadership of Bill Gates, and Facebook, with Mark Zuckerberg at the helm, to be recognized as among the leading technology companies of their time.³² Microsoft led the way to nearly ubiquitous personal computing in middle class households and Facebook is now the iconic new media platform. The article provides thumbnail biographical sketches of several “hackers” who founded successful companies including YCombinator,³³ products like the Apple II³⁴ and Macintosh³⁵, as well as initiatives such as the GNU Project and Free Software

³¹ See Steven Levy, *Geek Power: How Hacker Culture Conquered the World*, *Wired* (May, 2010), available at http://www.wired.com/magazine/2010/04/ff_hackers/ (last visited May 1, 2010) (stating “... all real hackers shared a set of values that has turned out to be a credo for the information age. I attempted to codify this unspoken ethos into a series of principles called the hacker ethic. Some of the notions now seem forehead-smackingly obvious but at the time were far from accepted (‘You can create art and beauty on a computer’). Others spoke to the meritocratic possibilities of a digital age (‘Hackers should be judged by their hacking, not bogus criteria such as degrees, age, race, or position’). Another axiom identified computers as instruments of insurrection, granting power to any individual with a keyboard and sufficient brainpower (‘Mistrust authority — promote decentralization’). But the precept I perceived as most central to hacker culture turned out to be the most controversial: ‘All information should be free.’”)

³² *See id.*

³³ *See id.* (discussing Paul Graham).

³⁴ *See id.* (discussing Steve Wozniak).

³⁵ *See id.* (discussing Andy Hertzfeld).

Foundation.³⁶ These individuals have made indispensable contributions to American innovation, which ultimately gave rise to the media revolution on the content layer for which the Commission now seeks comment.

Nevertheless, not a single woman or person of color is discussed in the *Wired* article. That is disturbing and has major implications for media and technology policy. A communications infrastructure that truly supports meritocracy should not result in innovation coming from a handful of universities, in a handful of locales around the country, or from largely one race and gender.

There is hope. Over the next five years, President Obama's "Educate to Innovate" campaign will provide desperately needed support and training to thousands of math and science teachers.³⁷ Intel, the National Science Initiative's UTeach program, PBS, Public University Presidents, and the Woodrow Wilson National Fellowship Foundation, will provide more than \$250 million of in-kind contributions to Education to Innovate, in addition to the \$260 million already committed at the launch of Education to Innovate, in November 2009.³⁸ In partnership with volunteer NASA scientists, Educate to Innovate will apply proven strategies for training more than 100,000 existing science, technology, engineering, and mathematics ("STEM") teachers.³⁹ The Education to Innovate program, in conjunction with other initiatives introduced

³⁶ *See id.* (discussing Richard Stallman).

³⁷ *See* Press Release, President Obama Expands "Educate to Innovate" Campaign for Excellence in Science, Technology, Engineering, and Mathematics (STEM) Education, The White House (January 6, 2010), available at <http://www.whitehouse.gov/the-press-office/president-obama-expands-educate-innovate-campaign-excellence-science-technology-eng> (last visited May 1, 2010).

³⁸ *See id.*

³⁹ *See id.*

by the Obama Administration, including a \$4.35 billion Race to the Top fund for teacher development,⁴⁰ and a \$143 million grant program through the Department of Education for high need school districts,⁴¹ offer the most promise for underrepresented groups to have a more participatory role in all aspects of innovation, including new media.

B. Although Substantially More Investment Will Be Needed, Government, Non-Profit And For-Profit Commitments To Increase Broadband Adoption Rates Will Likely Lead To Opportunities For Minorities

The Recovery Act⁴² provides much needed investment in broadband infrastructure and adoption programs to help elevate low-income, minority communities. Digital literacy programs administered under the Broadband and Technology Opportunities Program (“BTOP”) will teach citizens how to use the technology. Ultimately, however, the combined \$7.2 billion provided to the National Telecommunications and Information Administration and the Rural Utilities Service is just a fraction of what will be needed for the United States to lead the world in ubiquitous broadband access. In developing a new media policy agenda, the Commission should ask Congress to commit additional funding to support ongoing broadband infrastructure investment and expand digital literacy programs to include introductory STEM training in libraries and schools. These investments will expand access opportunities even further, while deepening minorities’ level of online engagement beyond content consumption.

⁴⁰ *See id.*

⁴¹ *See id.*

⁴² *See* American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115 (2009).

III. To Promote Inclusion, The Government Should Work With Industry, Including MBEs, SDBs, And Non-Profits, To Develop Economic Incentives For Innovation That Are Tailored To The Consumption Patterns Of Minority Communities

The *Notice* inquires as to the media consumption patterns in minority communities.⁴³

Historically, studies indicate that African Americans are more skeptical of how the mainstream media covers their communities. The Kerner Commission Report indicated that, in the 1960s, Blacks did not trust the manner in which mainstream media covered events affecting their communities, particularly neighborhood violence after the assassination of Dr. Martin Luther King, Jr.⁴⁴ Recent studies show this sentiment remains, where some African Americans believe mainstream media marginalizes their issues and experiences.⁴⁵ African Americans and Hispanics tend to purchase more newspapers in areas where there are higher concentrations of Blacks and Hispanics, but smaller White concentrations.⁴⁶ Evidence also indicates that minority consumption patterns would differ for online users as well.⁴⁷

Community based organizations are well suited to develop innovative economic incentives tailored to their constituents. Locally-based Minority Business Entities (MBEs), Small and Disadvantaged Businesses (SDBs), nonprofit organizations, Historically Black Colleges and Universities (“HBCUs”), Hispanic Serving Institutions (“HSIs”), Asian American Serving Institutions (“AASIs”), and Native American Serving Institution (“NASIs”) possess a

⁴³ *Notice* at p. 4, question 4.

⁴⁴ *See* Byerly at 4.

⁴⁵ *See id.* at 5.

⁴⁶ Lisa George, Joel Waldfogel, Who Affects Whom in Daily Newspaper Markets?, 111 *Journal of Political Economy* 765, 774-776 (2003).

⁴⁷ *JCPS Study* at 33 (indicating that among those who have not adopted broadband Internet, Black, Hispanics, and White consume would potentially consume news at different rates).

demonstrated commitment, ability, and experience to meet the needs of minority communities. To promote inclusion, we recommend accessing existing networks of local and national nonprofit organizations to create both culturally specific and mainstream content.

IV. The Commission Should Consider Numerous Proposals Submitted By Civil Rights Organizations

MMTC is working with the Office of Communications and Business Opportunities (OCBO) to review a backlog of 75 civil rights proposals pending before the Commission. These proposals were developed to advance minority and female ownership and participation in the media and telecom industries. Advancing minority ownership and participation in the media and telecom industries is especially important given the nexus between minority ownership and minority viewpoints. Yet many of the proposals have been pending for longer than five years, with three pending longer than 10 years.

For ease of reference, MMTC has placed the proposals into seven tranches of proposed actions: (1) Notice of Proposed Rulemaking on Commission Operations and Procedures, (2) Policy Statement and Notice of Proposed Rulemaking on Media and Telecom Diversity, (3) Report and Order and Further Notice of Proposed Rulemaking in the Omnibus Media Diversity Docket, (4) Omnibus Telecom Diversity Docket, (5) Further Orders in Preexisting Special Dockets, (6) Staff Instructions, and (7) Legislative Recommendations.⁴⁸

The Commission has long recognized the importance of media diversity in advancing our nation's welfare.⁴⁹ Historically, this recognition has been mainly in theory, but not necessarily in

⁴⁸ Summaries of all of the proposals are available from undersigned counsel.

⁴⁹ See *Broadcast Diversity Order*, 23 FCC Rcd at 5924 ¶2.

practice. We are greatly encouraged by the Commission’s renewed commitment to ruling on these long-pending proposals.

CONCLUSION

All Americans require access to diverse sources of relevant news and information. However, without implementing tailored approaches to reach minority and multilingual communities, digital media will simply replicate the systematic discrimination practiced by traditional media for the past 75 years. The high speed at which technology moves will serve only to accelerate disparities in other policy areas directly affected by technology, including education, healthcare, employment, emergency services, and civic engagement.

The Future of Media project should consider whether traditional and emerging media adequately serve the needs of minority and low-income communities and what should be done to recognize the “digital democracy” ideal. As the American populace becomes increasingly diverse, the media can no longer claim legitimacy in portraying a homogenized cultural perspective. Just as consumers enjoy a diverse selection of content delivery platforms from which to choose, so too should mainstream content incorporate a variety of racial and socioeconomic perspectives. To the extent that the Future of Media project assesses the current media landscape, it should recommend that the Commission act upon and enforce existing proposals, regulations, and shared authority with other government agencies. We urge the Commission to inquire genuinely how media may be made more truly diverse.

Respectfully submitted,



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