



April 15, 2021

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
45 L Street NE
Washington DC 20554

Dear Ms. Dortch:

Re: *Ex Parte Communication, Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Notice of Proposed Rulemaking, MB Docket No. 20-299

The Multicultural Media, Telecom and Internet Council (“MMTC”) supports the purpose of this proceeding to ensure that the public is properly informed in the very limited number of cases when broadcast stations air programming sponsored by foreign governments and their agents.¹ Unfortunately, the FCC’s Draft Order is not narrowly focused on the miniscule number of stations airing the type of foreign propaganda that raised the FCC’s concern.² Rather, the Draft Order would subject the thousands of radio and television stations with leasing arrangements (including time brokerage agreements (“TBAs”) or local marketing agreements (“LMAs”)) to overbroad and unduly burdensome due diligence requirements at the time the lease agreement is executed and every six months thereafter. And these multi-step due diligence requirements would apply even when the broadcaster has a leasing arrangement with a long-term business partner, a party known to the broadcaster for years, or a local party who is obviously not a foreign government. Indeed, the Draft Order would obligate a broadcaster to undertake costly and expensive due diligence for leasing agreements with another FCC-licensed broadcaster or even local churches for the airing of religious services.

The Draft Order’s unnecessarily broad mandates will disproportionately burden small broadcasters with limited personnel and financial resources. For this reason alone, MMTC urges the Commission to more narrowly tailor its approach so that any due diligence requirements apply in those circumstances where the broadcaster has reason to believe the programming may be coming from a foreign governmental source. But beyond the disproportionate impact on small stations, MMTC also is concerned that the regulatory burdens imposed by the Draft Order will make it more difficult for small entities and new entrants to the broadcast industry to enter into LMAs to facilitate the training and incubation that often form the pathway to new and diverse ownership.

The terms of the Draft Order likely will have a particularly negative effect on minority and women-owned broadcasters, many of whom begin in the industry by programming another station via an LMA before

¹ See *Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Notice of Proposed Rulemaking, MB Docket No. 20-299, FCC No. 20-146 (rel. Oct. 26, 2020) (Notice).

² See *Sponsorship Identification Requirements for Foreign Government-Provided Programming*, Notice of Proposed Rulemaking, MB Docket No. 20-299, FCC-CIRC2104-06 (rel. Apr. 2, 2021) (Draft Order).

eventually acquiring the station. MMTC can attest to the importance of this pathway into the broadcast business.³ Unfortunately under the Draft Order, station owners who enter into LMAs will be forced to undertake repetitive, time-consuming and costly efforts to inquire into, and attempt to independently confirm, the lessee's status, even without any reason whatsoever to believe that the lessee may be a foreign governmental entity.⁴ The unnecessary additional burdens imposed by this new, multi-step regulatory regime will discourage station owners from entering into LMAs, TBAs or similar arrangements, ultimately making it more difficult for minorities, women and other new entrants to pursue this path toward programming and/or owning a station. The rules also would place new burdens on station owners' efforts to provide diverse content from minority-owned programming suppliers, even in cases where they have worked with the suppliers for years and the programming does not come from foreign governmental sources.

For all these reasons, MMTC believes that the harms imposed by the Draft Order's diligence requirements far outweigh their benefit, particularly given the extremely limited scope of the identified problem. The Commission should tailor its diligence requirements to those cases where the broadcaster has reason to believe that a foreign governmental entity is the source of the programming in question. The FCC can achieve its goal of informing the public of foreign government-sponsored programming on broadcast stations without unduly burdening small broadcasters, discouraging leasing arrangements, and impeding the ability of minorities, women and other new entrants to gain valuable experience in broadcasting by programming stations via LMAs and TBAs.

³ MMTC helps new entrants, minorities, and women enter media ownership by working with buyers of donated stations "to consider applications for [LMAs]" where participants run the operations and "then later purchase the properties." MMTC also assists "buyers to find incubation and LMA arrangements with other owners." [Radio Ownership | Multicultural Media, Telecom and Internet Council \(mmtconline.org\)](https://mmtconline.org/media-brokerage/). Specifically, for over a decade, MMTC has worked with media organizations that have donated stations to MMTC's broadcast company, MMTC Broadcasting LLC, which uses the donated stations to promote diverse ownership, incubation and LMA and training opportunities for minority, women and new entrants. *See, e.g.,* <https://mmtconline.org/media-brokerage/>

⁴ The Draft Order requires licensees to "(1) Inform the lessee of the foreign sponsorship disclosure requirement; (2) Inquire of the lessee whether it falls into any of the categories that qualify it as a "foreign governmental entity"; (3) Inquire of the lessee whether it knows if anyone further back in the chain of producing/distributing the programming that will be aired pursuant to the lease agreement, or a sub-lease, qualifies as a foreign governmental entity and has provided some type of inducement to air the programming; (4) Independently confirm the lessee's status, by consulting the Department of Justice's FARA website and the Commission's semi-annual U.S.-based foreign media outlets reports, as well as using internet search engines to conduct searches of the lessee's name. This need only be done if the lessee has not already disclosed that it falls into one of the covered categories and that there is no separate need for a disclosure because no one further back in the chain of producing/transmitting the programming falls into one of the covered categories and has provided some form of service or consideration as an inducement to broadcast the programming; (5) Memorialize the above-listed inquiries and investigations to track compliance in the event documentation is required to respond to any future Commission inquiry on the issue; and (6) Continue to make the above-listed inquiries of the lessee, and independently verify if necessary, at a minimum of regular six- month intervals thereafter."

Respectfully submitted,

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