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August 4, 2021

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Special Advisor to the Chairwoman  
Federal Communications Commission  
45 L Street N.E.  
Washington, D.C. 20554

Dear Mr. Williams:

**RE: Seven Powerful Initiatives for Racial Justice in Media:**

(1) Access to more Competitive Facilities through (a) Geo-Targeting (MB Dockets 17-105 and 20-401), (b) Creating a new FM Station Class C4 (MB Docket 18-184); and (c) Repeal or relaxation of the Rural Radio Policy (MB Docket 17-105); (2) Correct the Deficiency in the Radio Incubator Program (MB Docket 18-349); (3) Equal Procurement Opportunity (MB Docket 18-349); (4) Tax Certificate Policy Restoration, and Tax Credit for Station Donation to Training Institution; (5) Minority/Women Inclusion Impact Statements in all rulemakings of general applicability; (6) Equal Employment Opportunity (MM Dockets 98-204 and 19-177); (7) Universal Access to Emergency Information (EB Dockets 04-296 and 06-119).

The Multicultural Media, Telecom and Internet Council (“MMTC”) respectfully presents the case for action on seven compelling initiatives, listed above, that would advance diversity and inclusion in mass media.<sup>1</sup>

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<sup>1</sup> MMTC also has been deeply involved in a host of broadband and telecom dockets focused on closing the homework gap and the digital divide. These include Lifeline Reform (WC Dockets 09-197, 10-90, 11-42, and 17-208); the Emergency Broadband Benefit Program (WC Docket 20-445); the Rural 5G Fund (GN Docket 20-32 and WT Docket 10-208); Lifeline (WC Docket 02-60 and CC Docket 02-6); and Inmate Telephony (WC Docket 12-375). The agency is moving in the right direction on all of these issues. MMTC can provide a summary of its advocacy on these issues upon request.

Mr. Sanford Williams, Esq.

August 4, 2021

Page 2.

### **Contextual Background**

In the wake of Dr. King’s 1968 assassination, the Kerner Report described how America’s mass media had “not communicated” to White members of their audiences what it is like to be Black in America.<sup>2</sup> The FCC responded immediately, becoming the first federal agency to require its licensees to practice employment nondiscrimination. In adopting the new EEO rules, the Commission declared that “[a] refusal to hire Negroes or persons of any race or religion clearly raises a question of whether the licensee is making a good faith effort to serve his entire public.”<sup>3</sup> In making an observation that is still valid today, Stephen J. Pollak, Assistant Attorney General, Civil Rights Division, Department of Justice, declared, in what is famously known as the “Pollak Letter,” that:

Because of the enormous impact which television and radio have upon American life, the employment practices of the broadcasting industry have an importance greater than that suggested by the number of its employees. The provision of equal opportunity in employment in that industry could therefore contribute significantly toward reducing and ending discrimination in other industries.<sup>4</sup>

Echoing the Pollak Letter, Commission officials and the recently concluded Advisory Committee on Diversity and Digital Empowerment (“ACDDE”) have all spoken up eloquently and powerfully for racial justice,<sup>5</sup> signaling that there is no better time than *now* to give effect to this moral imperative.

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<sup>2</sup> *Report of the National Advisory Commission on Civil Disorders (1968) (“Kerner Report”),* (stating in Chapter 15 that “the 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 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.”)

<sup>3</sup> *Petition for Rulemaking to Require Broadcast Licensees to Show Nondiscrimination in their Employment Practices*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC2d 766, 770 (1968).

<sup>4</sup> *Id.*, Appx, at 4.

<sup>5</sup> *See Commissioner Geoffrey Starks Releases Statement on Nationwide Protests and Social Change*, FCC (June 2, 2020), <https://www.fcc.gov/document/commissioner-starks-statement-nationwide-protests-and-social-change>; *see Advisory Committee on Diversity and Digital Empowerment (“ACDDE”) Releases Statement on Civil Rights Demonstrations and the Racial Divide*, FCC (June 11, 2020), <https://www.fcc.gov/document/acdde-statement-civil-rights-demonstrations>.

Mr. Sanford Williams, Esq.

August 4, 2021

Page 3.

At no time since 1968 has it been more important that the FCC immediately affirm that it cares about issues of racial justice. Even President Biden has seized this moment in his Executive Order on Advancing Racial Equity, stating:

It is . . . the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.<sup>6</sup>

The FCC's long and malodorous history of minority exclusion should both haunt and motivate all of us.<sup>7</sup> Numerous proposals to advance racial justice in media and telecommunications have stalled interminably, awaiting action on the 8<sup>th</sup> Floors of 1919 M St. NW, 445 12<sup>th</sup> St. S.W., and now 45 L St. NE. It is not uncommon for the agency to take 10 or 20 years, or more, to act on a proposal to advance opportunities for multicultural communities and consumers, causing some of our nation's top officials to take notice.<sup>8</sup> For instance, in 2017, Judge (now Justice) Brett Kavanaugh memorably declared that the FCC observes "bureaucratic standard time."<sup>9</sup>

Today, the FCC carries the enormous responsibility of overseeing one-sixth of our national economy, including some of America's fastest growing industries and greatest exports, and are the trustees of the First Amendment. No federal body has a greater need to create and preserve racial justice than the Federal Communications Commission.

Therefore, MMTC respectfully offers seven powerful initiatives the FCC can undertake immediately to ensure equal opportunity in our most influential and powerful industries.

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<sup>6</sup> *Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government*, White House (January 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

<sup>7</sup> See David Honig, *How the FCC Suppressed Minority Broadcast Ownership, and How the FCC Can Undo the Damage it Caused*, 12 S. J. OF POL'Y & JUST. 44 (2018) ("How FCC Suppressed").

<sup>8</sup> Examples include Inmate Telephone Rates (11 years from PFRM to NPRM, and nine years of post-NPRM litigation so far); Advertising Nondiscrimination (25 years from PFRM to R&O), and Radio Incubators (28 years from Advisory Committee proposal to R&O).

<sup>9</sup> See *MMTC v. FCC*, 873 F.3d 932, 936 (D.C. Cir. 2017).

## **Seven Powerful Initiatives for Racial Justice in Media**

**1. Access to more competitive technical facilities.** Broadcasting has been the heritage technology for minority media entrepreneurs, and minority broadcasters have been the voices and conscience of their communities. Yet minority broadcasters generally must compete while using inferior technical facilities, such as AM daytimers, lower-powered outlets, and stations unable to cover the full market due to the transmitter's location in a distant suburb or exurb.<sup>10</sup>

*Within the administration's first year, the Commission should act on a host of pending proposals that would advance minority broadcast ownership, including:*

- *granting a FM booster rule change that would authorize FM radio geo-targeting;*<sup>11</sup>
- *creating a new station class ("C4") that would double the power of hundreds of small FM stations;*<sup>12</sup> and
- *repealing the "Rural Radio Policy," that needlessly deprives small broadcasters of the opportunity to improve their signal coverage.*<sup>13</sup>

**2. Correct the Deficiency in the Radio Incubator Program.** In June 2021, the Commission established the Radio Incubator program.<sup>14</sup> However, the Program has one

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<sup>10</sup> See *How FCC Suppressed*, *supra* n. 7, at 82-86, 96.

<sup>11</sup> See *Amendment of Section 74.1231(i) of the Commission's Rules on FM Broadcast Booster Stations ("Geo-Targeting")*, MB Dockets 20-401 and 17-105 (December 1, 2020), <https://ecfsapi.fcc.gov/file/1202219000352/FCC-20-166A1.pdf>. MMTC believes that this technology has promise for individual broadcasters, particularly minority-owned stations, and would offer benefits to small businesses, including those in minority communities.

<sup>12</sup> See *Reply Comments of MMTC on the Modernization of Media Regulation Initiative*, Docket MB 18-184, (September 12, 2018), <https://ecfsapi.fcc.gov/file/10705454820581/MMTC%20Comments%20Modernization%20Proceeding%20070517.pdf> (concluding that doubling the stations' power, as contemplated in the proceeding, "would add considerably to the stations' asset values, thereby facilitating the licensees' ability to attract investors, qualify for loans, and ultimately to be sold at competitive prices if the owner seeks to gravitate her station portfolio into larger markets"); see also *Notice of Inquiry*, FCC (June 5, 2018), [https://ecfsapi.fcc.gov/file/0605175615100/FCC-18-69A1\\_Rcd.pdf](https://ecfsapi.fcc.gov/file/0605175615100/FCC-18-69A1_Rcd.pdf).

<sup>13</sup> See *Comments of MMTC re the Modernization of Media Regulation Initiative*, MB Docket 17-105 at 11 (July 5, 2017), <https://ecfsapi.fcc.gov/file/10705454820581/MMTC%20Comments%20Modernization%20Proceeding%20070517.pdf>, ("[r]epealing the Rural Radio Policy would help minority owned and ethnic stations, which often have fringe signals, to compete effectively with other stations in their markets, overcoming, at least to some extent, the present effects of past discrimination. All stations would benefit from repeal of the policy by gaining greater flexibility in locating their transmitters to better serve their audiences as demographics change.")

Mr. Sanford Williams, Esq.

August 4, 2021

Page 5.

deficiency: incubation of a station in a geographically vast but sparsely populated market with 45 stations would entitle the incubating company to a local ownership cap or subcap waiver in very large markets.

***The Commission should correct a serious error in the formulation of the Radio Incubator Program by allowing incubation waivers only in similar-sized markets.***<sup>15</sup>

**3. Ubiquitous Equal Procurement Opportunity.** In 1992, Congress directed the FCC to create the Cable Procurement Rule to ensure that businesses owned by women and minorities would have a fair chance at winning major contracts.<sup>16</sup> The regulation yielded solid results and drew no opposition.<sup>17</sup> The highly successful Cable Procurement Rule, in effect without

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<sup>14</sup> See *2014 Quadrennial Review (Order)*, MB Dockets 14-50 et al., DA 21- 656 (June 4, 2021), p. 2.

<sup>15</sup> See *Media Bureau Seeks to Update the Record in the 2018 Quadrennial Regulatory Review*, MB Docket 18-349, FCC at 1 (June 4, 2021) (“*2018 Quadrennial Review PN*”), <https://ecfsapi.fcc.gov/file/0604160549493/DA-21-657A1.pdf> (confirming establishment of a radio Incubator Program). However, the Program has one deficiency: incubation of a station in a geographically vast but sparsely populated market with 45 stations (e.g. Traverse City, MI, BIA Market #157) can be rewarded by a local radio ownership cap or subcap waiver in (e.g.) New York City. See, e.g., David Honig and James Winston, Letter to Secretary Marlene Dortch, FCC (July 26, 2018) (see discussion of “Comparable Markets”), <https://ecfsapi.fcc.gov/file/10726007804045/2%20FAC%20Members%20ExParte%20072618.pdf> and subsequent filings. This error can be corrected by creating a series of five or six market-size tranches (e.g., incubation in a market ranked 11-24 would be rewarded with a waiver in another market ranking 11 or smaller).

<sup>16</sup> 47 U.S.C. §554(d)(2)(E) (stating that FCC must develop rules to ensure that an MVPD shall “encourage minority and female entrepreneurs to conduct business with all parts of its operation.”) The rule (with the same language) is found at 47 C.F.R. §76.75(e) (the “Cable Procurement Rule”).

<sup>17</sup> *Recommendation on Procurement Issues, Emerging Technologies Subcommittee, Advisory Committee on Diversity for Communications in the Digital Age (adopted by the full Committee)*, (June 10, 2008), <https://transition.fcc.gov/DiversityFAC/adopted-recommendations/procurement-061008.pdf> (recommending that the Commission examine extending the procurement requirements to all platforms). MMTC has sought this relief since 2010. See also Letter to Marlene Dortch from David Honig, Executive Director, Minority Media and Telecommunications Council (Proposal #10), (March 18, 2010), <https://ecfsapi.fcc.gov/file/7020396472.pdf>; see also William Kennard, Reed Hundt, Julius Genachowski, and Michael Copps, Letter to Hon. Tom Wheeler regarding the extension of the MVPD procurement rule (August 5, 2016), <https://ecfsapi.fcc.gov/file/1080581619752/FmrChairs%20Procurement%20Ltr-signed%20080516.pdf> and subsequent filings in multiple dockets. In the *2018 Quadrennial Review PN*, the Commission sought comment on whether to extend the Cable Procurement Rule to broadcasting. See *2018 Quadrennial Review PN*, *supra* n. 18, at 2 and n. 9. The issue of

Mr. Sanford Williams, Esq.

August 4, 2021

Page 6.

controversy since its adoption in 1993, ensures that cable MSOs will disseminate major procurement opportunities (such as laying fiber or installing equipment) broadly enough to reach eligible minority- and women-owned companies. Procurement opportunities help small, minority- and women-owned businesses grow and provide jobs; further, by adding competition in bidding, these businesses drive down the prices cable companies must pay for the services provided. Finally, a diverse pool of multiple suppliers of a key product or service deepens the pool of talent and entrepreneurial mettle, while helping ensure that the market will not collapse as it would if the only supplier should fail. Ubiquitous equal procurement opportunity would be a classic “win-win” for everyone.

***The Commission should issue an NPRM in a fast-track new general docket, encompassing the industries regulated by the Wireline, Wireless, and Media bureaus, and propose equal procurement opportunity across all FCC-regulated industries that is modeled after the Cable Procurement Rule.***

**4. Tax Certificate and Tax Credit.** There is widespread recognition that the 1978-1995 Tax Certificate Policy was by far the most effective vehicle for advancing minority broadcast ownership. In its 17 years of operation, the policy quintupled minority broadcast ownership. Another desirable tax initiative, tailored for small businesses, would provide that a company donating a station to a training institution (e.g., an HBCU or HSI) would receive a tax credit equal to the station’s value.

***The Commission should request that Congress restore and improve the Tax Certificate Policy<sup>18</sup> and create a tax credit for donating a station to a training institution.<sup>19</sup>***

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extending the Rule to wireless is also before the Commission. See MMTC *et al.*, *Petition for Partial Reconsideration, Establishing a 5G Fund for Rural America*, GN Docket 20-32 and WT Docket 10-208 at 1 (November 30, 2020), <https://ecfsapi.fcc.gov/file/1130418623421/5G%20Fund%20Supporters%20Recon%20113020%20FINAL.pdf>, (asking the Commission to “require that applicants for 5G Fund subsidies broadly disseminate contracting opportunities to ensure that diverse contractors have an opportunity to compete for contracts awarded under the Fund.”)

<sup>18</sup> See The Broadcast VOICES Act, S. 2456, 117<sup>th</sup> Cong. (2021) (introduced July 22, 2021 by Senator Gary Peters (D-MI) and Senator Robert Menendez (D-NJ)); see also the Expanding Broadcast Opportunities Act of 2019 (re-introduced July 31, 2021 by Congressman G.K. Butterfield (D-NC). The original Tax Certificate Policy, in effect from 1978 through 1995, was adopted in the *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 FCC2d 979, 983 (1978).

<sup>19</sup> This “Station Donation Tax Credit” can be found at Section 45U of the Broadcast VOICES Act. It is further described in *How FCC Suppressed*, *supra* n. 7, at 96. Small broadcasters could use this provision to exit the industry efficiently without having to plunge into an uncertain station sales marketplace. Minorities and women would disproportionately benefit as trainees and ultimately as broadcasters from this modification to the tax code.



**5. Include Diversity, Equity, and Inclusion Impact Statements in all rulemakings of general applicability.** Reports and Orders in rulemakings of general applicability, including 202(h) Quadrennials, should contain a Diversity, Equity, and Inclusion Impact Statement. Recently, in *FCC v. Prometheus Radio Project*, 141 S.Ct. 1150 (2021), the Supreme Court left open the question of whether a 202(h) Quadrennial must incorporate a focus on minority and women ownership. This proposal, long advanced by its chief proponent NABOB, is ripe for consideration.

***What gets measured gets done. The Commission should seek comment looking toward adoption of a universal policy where every rulemaking of general applicability will contain a Diversity, Equity, and Inclusion Impact Statement.***

**6. Ubiquitous Equal Employment Opportunity.** In the first decade of FCC EEO jurisprudence, and under the leadership of Chairman Richard E. Wiley and Commissioner Benjamin L. Hooks, 14 cases were designated for Section 309(e) evidentiary hearings over evidence of employment discrimination.<sup>20</sup> Yet despite the continuing prevalence of low minority representation in influential broadcasting jobs,<sup>21</sup> the Commission has not brought a single discrimination prosecution since 1994.

***The Commission should conclude its 23-year-old broadcast EEO proceeding (MM Docket 98-204) and start to prosecute licensees that recruit new employees primarily by word of mouth to the friends and family members of their homogeneous staffs—a recruitment strategy the Commission has long recognized to be discriminatory.***<sup>22</sup> ***Further, the Commission should***

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<sup>20</sup> See *How FCC Suppressed*, *supra* n. 7, at 84 and n. 158.

<sup>21</sup> These are most recent abysmal statistics, including those reported by RTDNA/Newhouse School at Syracuse University Newsroom Survey, <https://www.rtdna.org/uploads/files/2021%20RTDNA-Syracuse%20Research%20-%20Local%20News%20Diversity.pdf>. The 2019 RTDNA statistics are set out in the *Comments of the EEO Supporters: Review of EEO Compliance and Enforcement in Broadcast and Multichannel Video Programming Industries*, MM Docket 98-204 and MB Docket 19-177 (September 20, 2019), at 11–12 and n. 25, <https://ecfsapi.fcc.gov/file/10921067118119/EEO%20Supporters%20Comments%20092019.pdf>. See also, e.g., Jeremy Barr, “I Have Struggled”: Black TV Journalists Talk George Floyd Coverage, *Industry Diversity*, Hollywood Reporter (June 13, 2020), <https://www.hollywoodreporter.com/amp/news/i-have-struggled-black-tv-journalists-talk-george-floyd-coverage-industry-diversity-1298146>.

<sup>22</sup> See, e.g., *Jacor Broadcasting Corp.*, *Memorandum Opinion and Order*, 12 FCC Rcd 7934, 7940 ¶14 (1997) (holding that over-reliance on word of mouth recruitment may “have the effect of discriminating against qualified minority groups or females”); *Walton Broadcasting, Inc. (KIKX, Tucson, AZ)*, *Decision*, 78 FCC2d 857, 875, *recon. denied*, 83 FCC2d 440 (1980) (holding that station used “employment practices which discriminated against minority groups in recruitment and employment” including “‘word of mouth’ referrals from a predominately white work force, which, while unintended, effectively discriminated against minority group employment.”)

Mr. Sanford Williams, Esq.

August 4, 2021

Page 8.

***consider several additional broadcast EEO regulatory reforms that are fully pled and endorsed by 44 national organizations, and ready for adoption.<sup>23</sup> Finally, using its broad investigative***

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<sup>23</sup> EEO enforcement steps the agency should consider are detailed in the EEO Supporters' September 20, 2019 Comments, at 13-29, and in the MMTC Letter to Chairman Pai and Commissioners, Review of EEO Compliance and Enforcement in Broadcast and Multichannel Video Programming Industries, MM Docket 98-204 and MB Docket 19-177 at 15-20 (December 11, 2019),

<https://ecfsapi.fcc.gov/file/1211255997855/MMTC%20EEO%20Letter%20121119.pdf>. These are:

- **Renewal Application and Audit Reform.** *See Comments of the EEO Supporters*, (April 30, 2018), <https://ecfsapi.fcc.gov/file/1050170956975/EEO%20Supporters%20Comments%20043018.pdf> and subsequent filings.
  - a. Auditors must have sufficient information to verify that hiring decisions were made *after* the job postings were made, and not beforehand.
  - b. The Commission should substantially increase (from the current 5%) the percentage of employment units audited each year.
  - c. The EEO Staff should select some audited units for thorough review to ensure nondiscrimination at points in the hiring process where applicants are interviewed and employees are selected. These intensive audits would cover not just recruitment but also such elements of personnel administration as interviewing, hiring, working conditions, and termination.
  - d. The *FCC/EEOC Memorandum of Understanding*, 70 FCC2d 2320 (1978) should be updated to ensure that the FCC immediately audits employment units that received EEOC probable cause determinations.
- **EEO Data Reform.** *See Letter to Hon. Ajit Pai from David Honig, Counsel for the EEO Supporters* (December 11, 2019), <https://ecfsapi.fcc.gov/file/1211255997855/MMTC%20EEO%20Letter%20121119.pdf> and previous and subsequent filings.
  - a. To ensure that the Commission's EEO enforcement efforts are bearing fruit, and to be aware of industry trends in broadcast employment that would help the Commission frame and fine-tune its EEO enforcement program, the Commission should collect and publish an annual, anonymous summary of aggregate Form 395 data. Currently, this data is not available from any other source. It is essential to an evaluation of equal opportunity in broadcast employment. A first step toward addressing this data collection issue was the agency's July 26, 2021 EEO FNPRM, *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, Further Notice of Proposed*



Mr. Sanford Williams, Esq.

August 4, 2021

Page 9.

*authority under Section 403 of the Communications Act (47 U.S.C. §403), and the inter-agency collaborative mandate as memorialized in the 1978 FCC/EEOC Memorandum of Understanding, the Commission should collaborate with the Department of Labor and the EEOC in investigating the abysmal diversity performance displayed year after year by most of the leading high tech platforms and edge companies.*<sup>24</sup>

On July 26, 2021 the Commission released a Further Notice of Proposed Rulemaking (Further Notice) in an effort to refresh the existing record regarding the statutorily mandated collection of

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*Rulemaking*, MB Docket 98-204, FCC 21-88 (July 26, 2021) (“2021 EEO FNPRM”), <https://docs.fcc.gov/public/attachments/FCC-21-88A1.pdf>.

- b. Carefully managed Form 395 data should be requested from licensees found to have failed to engage in broad recruitment such as internet postings, since word of mouth recruitment from a homogeneous workplace is inherently discriminatory.
- **EEO Whistleblower Protections:** *See* Letter to Rosemary Harold, Chief, Enforcement Division (also filed in MB Docket 19-177) from David Honig, President Emeritus, MMTC (September 3, 2019) (“Honig 2019 EEO Letter”), <https://ecfsapi.fcc.gov/file/10902796625387/MMTC%20EEO%20Letter%20090219.pdf>. The Commission should issue a restatement of its whistleblower protection policies, disseminate it as widely as possible, and place a secure phone number whistleblowers can call on the FCC’s website. This is non-controversial.
  - **EEO Compliance Documents:** *See* Honig 2019 EEO Letter. The EEO staff should prepare print, multimedia and internet versions of each of the following documents. This is non-controversial.
    - a. A Mass Media EEO Primer—setting out a full restatement of the case law in this area;
    - b. A “Guide to Mass Media EEO Best Practices” that would be filled with examples of EEO initiatives that have proven effective. The EEO Staff should also hold Best Practices workshops at national and state trade association and civic organizations’ meetings;
    - c. FAQ’s, which should be updated as questions are received and answered; and
    - d. Model EEO Programs—several examples, tailored to units’ sizes, market sizes, geography, and area demographics.

<sup>24</sup> 47 U.S.C. §403 (1934); *see Diversity in High Tech*, EEOC (2015), <https://www.eeoc.gov/special-report/diversity-high-tech>; *see also* Letter to Trump Telecom Transition Team from MMTC (December 2, 2016) (item 8: EEO and high tech), <https://ecfsapi.fcc.gov/file/12050833924390/MMTC%2012%20Imperatives%20120216.pdf>); *see also FCC-EEOC Memorandum of Understanding*, *supra* n.20.

Mr. Sanford Williams, Esq.

August 4, 2021

Page 10.

data on the FCC Form 395-B.<sup>25</sup> However, the Further Notice only addresses the narrow question of availability and permitted uses of station EEO data. It does not even mention the proposals that we have made for upgraded EEOC compliance and enforcement.<sup>26</sup>

**7. Universal Access to Multilingual Emergency Information.** Since Hurricane Katrina in 2005, MMTC and the League of United Latin American Citizens (LULAC)—with the support of over 60 national organizations—have repeatedly asked the Commission to ensure that basic, lifesaving information in widely spoken languages such as Spanish will be available in the wake of a Category 4 or 5 hurricane that could take down the electric and wireless grids.<sup>27</sup> MMTC and LULAC have demonstrated how the Commission can protect multilingual populations in emergencies with minimal regulatory intervention.<sup>28</sup> It is simply unconscionable that a person’s lack of English fluency can become a matter of life or death in an emergency situation.

***The Commission should issue a fast-track FNPRM in EB Dockets 04-296 and 06-119. The FNPRM should seek comment looking toward adoption of the MMTC/LULAC proposal to protect English-non-proficient persons in the immediate wake of a hurricane or other disaster.***

### Conclusion

Hopefully, looking back on 2021, future students of history will recognize the FCC as an agency that seized the moment and swiftly affirmed its commitment to racial justice by undertaking initiatives that will ensure that equal opportunity is present in our most influential industries.

We would welcome an opportunity to visit with you and your staff to amplify on the above-described seven top-priority items whose adoption would profoundly advance racial justice.

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<sup>25</sup> 2021 EEO FNPRM , *supra*.

<sup>26</sup> See *Prometheus Radio Project v. FCC*, 373 F.3d 372, 421 n 59 (3d Cir. 2004).

<sup>27</sup> See Letter from MMTC and LULAC to FCC Chairman Ajit Pai and Commissioners re Multilingual Emergency Communications, EB Dockets 06-119 and 04-296 (May 19, 2020), <https://ecfsapi.fcc.gov/file/105192267012763/MMTC-LULAC%20Multilingual%20Letter%20051920.pdf>.

<sup>28</sup> *Id.*, at 8–11.

Mr. Sanford Williams, Esq.  
August 4, 2021  
Page 11.

Respectfully submitted,

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