

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

In the Matter of)	
)	
2022 Quadrennial Regulatory Review –)	MB Docket No. 22-459
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
To the Commission		

**COMMENTS OF THE MULTICULTURAL
MEDIA, TELECOM AND INTERNET COUNCIL**

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March 3, 2023

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I. SUMMARY

MMTC opposes the relaxation or elimination of the Commission’s broadcast ownership rules, especially any changes in the Caps or Subcaps Rules. The Commission’s most recent (2022) Report on Broadcast Ownership demonstrates that ownership among women and minorities is still “embarrassingly low,” as stated in MMTC’s 2018 Quadrennial Review Comments. The most recent ownership report reveals a sharp contrast between the demographic makeup of the United States and the figures representing broadcast ownership and control, with women and minorities still only holding ownership in a tiny number of television and radio stations.

The 2022 Communications Market Report also reveals that ownership rules remain necessary given the unchanged marketplace. Eliminating the Subcaps Rule would result in dramatic devaluation and flight from AM radio stations. Not only would this leave millions of Americans without access to local news, information, and weather, but it would also deeply diminish the value of AM stations, harming minority and women owners.

Finally, the Commission should extend the highly successful Cable Procurement Rule to broadcasting and all FCC regulated technologies because it would help minority and women-owned businesses grow and enhance competition in bidding that would drive down prices.

II. INTRODUCTION

The Commission seeks comment on the Local Radio Ownership Rule and the Local Television Ownership Rule, which limit ownership by a single entity of broadcast radio or television stations in local markets, respectively—and the Dual Network Rule, which effectively prohibits mergers among the Big Four broadcast television networks (ABC, CBS, Fox, and

NBC).¹ As required by Section 202(h) of the Telecommunications Act of 1996, the Media Bureau seeks comment on whether the media ownership rules remain “necessary in the public interest as the result of competition.”² The Bureau asks several questions, including:

- Have the rules served, and do they continue to serve, consumers, particularly with respect to the Commission’s longstanding policy goals of competition, localism, and diversity?
- Has the marketplace under our current rules delivered sufficient “returns” for consumers with respect to competition, localism, and diversity?
- Are there areas in which consumers rely uniquely on broadcast media?³

MMTC addresses these questions in the discussion below. In particular, MMTC urges the Commission to maintain the current ownership caps and subcaps to encourage diversity in ownership and viewpoints in broadcasting. Additionally, MMTC urges the FCC to extend its Cable Procurement Rule to broadcasting.

III. THE LOCAL RADIO OWNERSHIP RULE SHOULD NOT UNDERGO ANY MAJOR CHANGES

A. Minority and Women Ownership Is Still Embarrassingly Low.

In the 2018 Quadrennial Review proceeding, MMTC noted that minority and women ownership is “embarrassingly low.”⁴ That is still the case, as shown in the Media Bureau’s 2022 Report on Broadcast Ownership (“2022 Biennial Report”). All parties would surely agree that

¹ *Media Bureau Opens Docket and Seeks Comment for 2022 Quadrennial Review of Media Ownership Rules*, MB Docket 22-459, Public Notice, DA 22-1364 (Dec. 22, 2022).

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 202(h) (1996) (1996 Act); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004) (“Appropriations Act”), (amending Sections 202(c) and 202(h) of the 1996 Act).

³ *Media Bureau Opens Docket and Seeks Comment for 2022 Quadrennial Review of Media Ownership Rules*, *supra* note 1 at 3.

⁴ MMTC, Comments of the Multicultural, Media, Telecom and Internet Council, MB Docket 18-349 (Apr. 28, 2019) (“MMTC Initial Comments”).

broadcasting is an essential public service relied upon by all. Nonetheless, the Report shows a sharp contrast between the demographic makeup of the United States and the figures representing ownership and control of broadcasting. While the United States population is split almost evenly among men and women, with the percentage of women being slightly greater,⁵ almost eight in ten commercial radio and television stations are majority-owned by men, and only 15% are majority-owned by women.⁶ A further 9% are majority-owned by genderless corporate entities. In terms of racial diversity, the data indicates that 93% of radio and television stations are majority-owned by Whites, with just 3% majority-owned by Hispanics, 2% majority-owned by Native Americans, 1% majority-owned by African Americans, and 0% majority-owned by Asian Americans.⁷ These figures are again not aligned with the demographic makeup of the United States, where, as of 2021, almost 60% of the population identifies as White, 20% as Hispanic, 12% as Black, 6% as Asian American, and 1% as Native American.

Radio diversity is somewhat less diverse than broadcasting overall. For FM radio, men have less control of commercial stations, but this is not because women own more. Rather, it is because more commercial FMs are majority-owned by genderless corporate entities. For every commercial FM majority-owned by a woman (9%), six in ten (59%) are owned by men.⁸ The latest data shows that White broadcasters majority-own 72% of commercial FMs, a five-point drop since 2019.⁹ However, Black and Hispanic ownership remained unchanged. African

⁵ United States Census Bureau, Quick Facts, available at <https://www.census.gov/quickfacts/fact/table/US/SEX255221> (last accessed Feb. 18, 2023).

⁶ *FCC Efforts Come Up Short As Latest Report On Ownership Diversity Shows Little Progress*, INSIDE RADIO, (Jan. 24, 2023), https://www.insideradio.com/free/fcc-efforts-come-up-short-as-latest-report-on-ownership-diversity-shows-little-progress/article_35e691c0-9bbb-11ed-b175-2fe880ad0fd4.html; see also Media Bureau and Office of Economics and Analytics, *2022 Biennial Report—Sixth Report on Ownership of Broadcast Stations*, DA 23-35 (Oct. 1, 2022).

⁷ 2022 Biennial Report, *supra* note 6.

⁸ *Id.* at 12.

⁹ *Id.*

Americans majority-own 2% of commercial FMs, while Hispanics majority-own 3%. Ownership among Asian Americans increased to 1%, but the biggest gains came from race-less entities. Noncommercial FMs are less diverse than commercial FMs, with 77% majority-owned by men and 92% White-owned, and no ownership gains for African Americans, Hispanics, or Asian Americans between 2019 and 2021.¹⁰

For AM radio, there is still little diversity despite lower prices to acquire ownership. The 2022 Biannual Report shows that two-thirds of AM stations are majority-owned by men, and three-quarters are White-owned. However, these figures decreased slightly from the 2019 percentages, due to Black and Hispanic ownership inching up by a point each and Asian American ownership remaining steady. Noncommercial AMs are even less diverse, with 93% majority-owned by Whites and 79% majority-owned by men.¹¹

These numbers dramatically demonstrate just how far broadcasting is from reaching a point of representation that reflects the nation's overall diversity.

B. The Ownership Rules Are Still Necessary Given the Unchanged Marketplace.

The 2022 Communications Marketplace Report reveals that the market remains unchanged. The Commission notes that terrestrial radio broadcasters have long been the mainstay of the audio programming market.¹² Additionally, the numbers of FM, AM, and LPFM stations have remained consistent through the years.¹³ Although mergers, acquisitions, and rebrands may make it appear as though broadcast ownership has changed, the largest broadcast television station groups and top radio station owners have retained control of their respective

¹⁰ *Id.* at 17.

¹¹ *Id.* at 16.

¹² 2022 Communications Marketplace Report, GN Docket 22-203 (Dec. 30, 2022) ¶245.

¹³ *Id.* ¶301.

media outlets.¹⁴ Thus the current market still demonstrates a need for ownership rules that protect competition, localism, and diversity.

C. Consolidation Would Drive Out Minority Broadcasters.

As noted in Free Press's comments on the 2018 Quadrennial Review:

Despite repeated mandates from the Third Circuit directing the Commission to examine how the agency's weakening of and changes to broadcast ownership limits impact ownership opportunities for women and people of color, the agency has refused to act. As it prepares for the next Quadrennial Review in 2022, the Commission should conduct a thorough analysis assessing the policies and market structures that are more likely to foster ownership by women and people of color, and before undertaking any rule changes should first analyze how such decisions will impact broadcast ownership diversity.¹⁵

Broadcast consolidation drives out women and people of color and decreases their influence on the news and events covered and the people employed. At a time when many people have become distrustful of the media, especially Black people,¹⁶ diversity in ownership has become critical to ensuring that diverse topics and perspectives are presented to counter disinformation and misinformation.¹⁷ Relaxing or eliminating the caps or the AM and FM subcaps, or relying on translators to supplement AM stations' coverage, would undoubtedly disadvantage minority broadcasters.¹⁸

¹⁴ 2022 Communications Marketplace Report ¶¶ 02 and ¶265. *Compare* 2018 Communications Marketplace Report; *see Scripps completes acquisition of ION Media from Black Diamond, Creating New National Networks Business* (Jan. 7, 2021), available at <https://www.prnewswire.com/news-releases/scripps-completes-acquisition-of-ion-media-from-black-diamond-creating-new-national-networks-business-301202935.html> (last accessed Feb. 28, 2023) (describing how Scripps acquired Ion Media. This acquisition made Scripps the largest television broadcast station owner in the 2022 Communications Marketplace report).

¹⁵ *See* Comments of Free Press, MB 18-349 (Sept. 2, 2021), available at <https://www.fcc.gov/ecfs/document/10902159600215/1> (last accessed Feb. 18, 2023).

¹⁶ Danielle Turchiano, *Two in Three Black Americans Don't Feel Properly Represented in Media*, VARIETY (Sept. 17, 2020), <https://variety.com/2020/tv/news/representation-matters-study-nrg-black-americans-media-1234772025/> (last accessed Feb. 18, 2023).

¹⁷ *See* Leadership Conference on Civil and Human Rights, *The Abysmal State of Media Ownership Diversity in America* (Dec. 10, 2020), available at <https://civilrights.org/blog/the-abysmal-state-of-media-ownership-diversity-in-america/> (last accessed Feb. 18, 2023).

¹⁸ *See* MMTC Initial Comments at 10; *see also* National Association of Black Owned Broadcasters ("NABOB") Comments, MB 18-349 (Sept. 1, 2021) at 9-11 (demonstrating that elimination of the cap and subcap rules would undermine the Commission's efforts to revitalize AM radio and would have a disproportionately negative competitive impact on African American and other minority owned AM radio stations).

The National Association of Black Owned Broadcasters (“NABOB”) explained in its 2018 Comments how the relaxation of the Cap and Subcap Rules would disadvantage minority broadcasters. NABOB references the statements of Jessica Marventano, Senior Vice President, Government Affairs for iHeart Media, Inc., who expressed iHeart’s opposition to the relaxation of the Cap and Subcap Rules:

By contrast, relaxing (much less eliminating) current limits on FM ownership would risk significant harm to the industry, particularly to AM radio, as it would trigger potential mass divestiture of AM stations in favor of FM station purchases. Such divestiture would result in a dramatic *devaluation* of and capital flight from AM radio stations, further undermining AM radio’s economic challenges and potentially stranding millions of American who depend on AM radio for their local news, information, sports and weather. For those current owners of AM radio stations, including women and minority owners, it could destroy the financial underpinnings of their asset. (emphasis in original)¹⁹

AM radio is the heritage technology through which minorities and women have been able to enter the industry. Further, millions of Americans rely on AM stations for local news, information, sports, and weather. For AM station owners, especially minorities and women, a further devaluation of AM stations in relation to FM stations could destroy the value of their AM assets and result in the loss of valuable service for those that rely on AM radio.²⁰

IV. THE CABLE PROCUREMENT RULE SHOULD BE EXTENDED TO BROADCASTING

In the 1992 Cable Act, Congress adopted the cable procurement requirement to “encourage minority and female entrepreneurs to conduct business with all parts of its operation; and . . . analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal

¹⁹ Jessica Marventano, Senior Vice President, Government Affairs for iHeart Media, Inc, iHeart Letter to Michelle Carey, Chief of the Media Bureau (Oct. 9, 2018), available at <https://www.fcc.gov/ecfs/document/10901758711599/1> (last accessed Feb. 28, 2023).

²⁰ NABOB Comments at 12.

employment opportunity program.”²¹ To implement this statutory requirement, the Commission adopted the Cable Procurement Rule in 1993. It provides that a cable system must “[e]ncourage minority and female entrepreneurs to conduct business with all parts of its operation.”²² The Rule explains that “[f]or example, this requirement may be met by: (1) Recruiting as wide as possible a pool of qualified entrepreneurs from sources such as employee referrals, community groups, contractors, associations, and other sources likely to be representative of minority and female interests.”²³

The FCC should extend the Cable Procurement Rule to broadcasting and all other FCC-regulated technologies.²⁴ The Cable Procurement Rule has been highly successful, produced almost no opposition, and provides opportunities to help small, minority- and women-owned businesses grow and provide jobs. Further, by facilitating competition in bidding for major contracts, the Rule drives 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. As proposed by the Commission’s Advisory Committee on Diversity for Communications in the Digital Age – in **2008** (!) – the Commission should issue an NPRM in a fast-track new general docket, encompassing the industries regulated by the Wireline, Wireless,

²¹ 47 U.S.C. §554(d)(2)(E)-(F).

²² 47 CFR §76.75(e).

²³ *Id.*

²⁴ Further Comments of the Multicultural Media, Telecom, and Internet Council, MB 18-349 (Aug. 31, 2021).

and Media bureaus, and propose equal procurement opportunity across all FCC-regulated industries, modeled after the Cable Procurement Rule.²⁵

Respectfully submitted,²⁶

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²⁵ MMTC; Letter to Sanford Williams Re: Seven Powerful Initiatives for Racial Justice in Media, MB Docket No. 18-349 (August 4, 2021), available at <https://www.fcc.gov/ecfs/document/110467772818/1> (last accessed February 28, 2023). The Commission's Advisory Committee on Diversity for Communications in the Digital Age endorsed extending the Cable Procurement Rule to wireline, wireless, and broadcasting. *See* Emerging Technologies Subcommittee Recommendation to the Federal Communications Commission's Advisory Committee on Diversity for Communications in the Digital Age, Recommendation on Procurement Issues, Adopted by the full Committee, June 10, 2008, available at <https://transition.fcc.gov/DiversityFAC/adopted-recommendations/procurement-061008.pdf> (last accessed February 28, 2023).

²⁶ MMTC appreciates the research and editing assistance of Brittany Brown, a 2L, and Pia-Milan Green, a 3L, who are MMTC Spring 2023 Law Student Fellows. They are enrolled at the University of Florida's Levin College of Law.