Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

	)	
2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)))))	MB Docket No. 09-182

To The Commission

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SUMMARY

At issue in the proceeding are "limits on concentration of ownership of broadcast media."[1] The Commission is well aware of how consolidation in the broadcast media market has led to a decrease in the number of broadcast owners since 1996.[2] In the 2006 Quadrennial Review, DCS submitted a number of proposals to assist small, minority, and women owned broadcasters to obtain or retain broadcast facilities.[3] DCS is pleased that the Commission is undertaking an exhaustive review of its ownership rules, as dramatic changes in the market threaten not only the Commission's goals of competition, localism, and diversity, but the viability of minority owned media.

Since the 2006 Quadrennial Review, the state of minority media ownership has worsened. Capital markets are suffering due to the economic downturn. More advertising dollars are spent on the Internet than on broadcast stations. Numerous minority broadcasters, which were previously treading water, are now sinking into bankruptcy. With fewer licenses available and limited financing to obtain broadcast facilities, these diverse voices are disappearing from the air, with no return in sight.

Competition, localism and diversity suffer when minority broadcasters leave the market. Minority broadcasters serve minority communities in ways that mainstream media may not, targeting issues of relevance to their listeners and viewers. While our nation embraces technology and new media, we must remember that traditional broadcast services are the primary

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[1] NOI at ¶1.

[2] NOI at ¶4.

[3] See generally Initial Comments of the Diversity and Competition Supporters in Response to the Second Further Notice of Proposed Rulemaking, 2006 Quadrennial Regulatory Review et al., MB Docket No. 06-121 (Oct. 1, 2007) ("DCS 2007 Ownership Comments").

sources for local news and information. As the Commission seeks a "comprehensive understanding" of the current media marketplace,[4] DCS once again calls on the agency to examine market entry barriers that cause minority exclusion: access to spectrum, access to capital, and access to opportunity. In particular, we urge the Commission to act on the MMTC and NABOB 1992 (and still pending, six dockets later) proposal for a new entrant incubation program.

[4] NOI at ¶3.

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COMMENTS OF THE DIVERSITY AND COMPETITION SUPPORTERS

The Diversity and Competition Supporters ("DCS") respectfully submit these comments in response to the Commission's May 25, 2010 Notice of Inquiry regarding its review of broadcast ownership rules.[5]

I. Policy Goals

A. Competition

1. How should marketplace changes affect our competition analysis, e.g., decline in traditional media, growth of new media?

The ability to create a competitive media depends on the opportunity for all people to participate in the market. The key barriers to full participation are a lack of access to capital and a regulatory climate that operates to lock in a status quo built upon the historic exclusion of minorities from the market, a result of past government practices. These barriers perpetuate the present effects of past discrimination across generations and inhibit competition by preventing people of color from fully participating in the production as well as consumption of media.[6]

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[5] See 2010 Quadrennial Regulatory Review, Notice of Inquiry, MB 09-182 (released May 25, 2010) ("NOI").

[6] MMTC documented the history of the Commission's shortcoming in its 2002 Media Ownership Comments. See Initial Comments of the Diversity and Competition Supporters, 2002

No significant minority ownership-promoting policies have been in effect following Congress' repeal of the Tax Certificate Policy.[7] Since 1995, except for modest initiatives adopted in 2007,[8] the FCC has failed to adopt significant replacement policies, and 72 minority ownership and equal employment proposals have gone without action – some for more than 10 years.[9] Thus since 1995 there has been a significant decline in access to capital and access to spectrum for minority broadcasters and entrepreneurs.[10] Limited financing and limited

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Biennial Regulatory Review et al., MB Docket No. 02-277 (Jan. 2, 2003), p. 19-34 (detailing how societal discrimination and government inaction caused disproportionate ownership of stations with weak technical facilities by minorities and relative exclusion from broadcast ownership) ("2002 Biennial Review Comments").

[7] See Pub. L. No. 104-7 §2, 109 Stat. 93 (1995) (repealing the Tax Certificate Policy). The Tax Certificate Policy, adopted in 1978, quintupled the number of minority owned broadcast stations See MMTC Road Map for Telecommunications Policy, pp. 1-2 (July 21, 2008), available at http://mmtconline.org/lp-pdf/MMTC-Road-Map-for-TCM-Policy.pdf (last visited July 7, 2010).

[8] 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 (2008) ("Broadcast Diversity Order").

[9] See 72 Proposals Pending Before the Federal Communications Commission to Advance Minority Media and Telecommunications Ownership and Employment (May 11, 2010) (on file with author) ("72 Pending Proposals"). See also *Ex Parte* Letter from David Honig, President and Executive Director, MMTC to Marlene Dortch, Esq., Secretary, FCC (March 18, 2010); *Ex Parte* Letter from David Honig, President and Executive Director, MMTC to Marlene Dortch, Esq., Secretary, FCC (March 24, 2010).

[10] See 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, Catherine Sandoval et al. (Nov. 2, 2009) at 23-24 ("Sandoval Study"), citing Kofi Ofori, When Being No.1 Is Not Enough: The Impact of Advertising Practices on Minority-Owned & Minority-Formatted Broadcast Stations, Civil Rights Forum on Communications Policy (January 1999) (discussing how the practice of non-urban and non-Spanish dictates cause broadcasters to yield less advertising revenue, thereby hindering their ability to secure financing). Ofori's study, which was sponsored by the Commission, examined discriminatory advertising practices in the 1990s and their impact on minority owned and minority formatted broadcasters. Its central finding was that radio stations that are successful in attracting large minority audiences still do not attract the dollars their ratings should earn. The study identified two particularly egregious practices: "no urban/Hispanic dictates" (an advertiser's instructions to its agency to refuse to buy airtime on stations with Black or Spanish formats) and "minority discounts" (an advertiser's refusal to pay as much to reach minority audiences as it would pay to reach White audiences, other factors being equal). In 2007, the Commission adopted an

opportunities to become a broadcast licensee hinder minority entrepreneurs' access to new or continued ownership opportunities.[11] Numerous minority-owned broadcasters folded or entered bankruptcy proceedings since the last quadrennial review, providing proof that, despite statements to the contrary, lack of access to capital for minority broadcast entrepreneurs is real.[12] To these broadcasters, the sky is indeed falling.

Census data shows significant growth in the nation's minority population over the last twenty years.[13] While the nation's overall population grew approximately 30 per cent between 1980 and 2007, the number of people who spoke a language other than English at home rose approximately 140 per cent.[14] Where few media outlets are available to serve the needs of

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advertising non-discrimination rule. See Broadcast Diversity Order, 23 FCC Rcd at 5941-42 ¶¶49-50. Unfortunately, the Commission still has not appointed a compliance officer, and these discriminatory practices persist. See Letter from David Honig, President and Executive Director, MMTC, to Hon. Julius Genachowski regarding Nondiscrimination in Advertising Sales Contracts, MB Docket No. 07-294 (Aug. 12, 2009) ("MMTC NUD Letter") (discussing no-Urban dictate issued by advertising firm on behalf of Mini Cooper).

[11] See Sandoval Study at 16-17 (discussing how more minority-owned broadcasters received their first licenses prior to the Telecommunication Act of 1996, which raised limits on multiple ownership and led to more a consolidated broadcast ownership market).

[12] See Sandoval Study at 9 (discussing bankruptcy or debtor-in-possession proceedings for minority-owned broadcasters such as Universal Broadcasting, Tama Broadcasting, On Top Communications, Ga-Mex, Denver Media, and Border Media). See also Mark Glover and Dale Kasler, Sacramento media mogul moves to pull plug on radio, TV stations, The Sacramento Bee, July 2, 2010, available at http://www.sacbee.com/2010/07/02/2864619/sacramento-media-mogul-moves-to.html (last visited July 6, 2010). See also Statement of Commissioner Mignon Clyburn Regarding Framework for Broadband Internet Service, GN No. 10-127, Open Commission Meeting (June 17, 2010) (speaking on investment opportunities in broadband, stating "…the public relations campaign being waged by some may itself be the catalyst for doubts about investment … If you yell "The sky is falling!" enough times, people will eventually take cover.")

[13] Haya El Nasser, Minority births drive growth in U.S. diversity, USA Today, June 22, 2010, available at http://www.usatoday.com/news/nation/census/2010-06-10-census-minorities_N.htm (last visited June 30, 2010).

[14] Hyon B. Shin and Robert A. Kominski, Language Use In the United States: 2007, American Community Survey Reports, April 2010, p. 5-6, available at http://www.census.gov/prod/2010pubs/acs-12.pdf (last visited June 30, 2010).

multilingual communities who desire programming in-language as well as culturally sensitive English language programming, there remains a need for competition.

2. **What is the impact of such changes on the economic viability of broadcasters, including specifically the viability of their local news and public affairs programming, in terms of the cost of production and resulting station revenue from such programming?**

Changes in the market, such as diminished competition, negatively impact local news and public affairs programming available to minority communities. A recent Pew study shows that approximately 62 per cent of African Americans regularly listen to Black or Urban radio news or talk programming.[15] Unfortunately, the ability of minority broadcasters to provide news and public affairs programming to their communities is hindered by economic barriers from numerous sources including media consolidation, no-urban/no-Spanish dictates (NUDs/NSDs, preventing minority broadcasters from collecting their fare share of advertising revenue),[16] employment discrimination by non-minority stations,[17] the chilling impact on lenders and

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[15] See A Year After Obama's Election Blacks Upbeat about Black Progress, Prospects, Pew Research Center (Jan. 12, 2010), p. 60, available at http://pewsocialtrends.org/assets/pdf/blacks-upbeat-about-black-progress-prospects.pdf (last visited June 27, 2010) ("Pew Study").

[16] See DCS 2007 Ownership Comments at 26-28 (discussing how the practice of non-urban/non-Spanish dictates frustrates the Commission's competition goals and causes minority and Spanish-targeted formats to lose approximately $18 million dollars in advertising revenue).

[17] In 2008, the Commission failed to take action in a timely manner in at least four cases where violations of the equal employment opportunity ("EEO") rules occurred during prior licensing period and outside the statute of limitations. See Seehafer Broadcasting Corporation, Letter, 23 FCC Rcd 3504, 3505 ¶6 (2008); Roser Communications Network, Letter, 23 FCC Rcd 3507, 3507-08 ¶2-3; Cumulus Licensing LLC, Letter, 23 FCC Rcd 4471, 4472-73 ¶6 (2008); Entravision Holdings, LLC, Letter, 23 FCC Rcd 4477, 4478 ¶5 (2008). In two cases, the FCC missed its own statute of limitations. See RCN Corporation, 22 FCC Rcd 11182 (June 22, 2007) (admonished because EEO violations; Time Warner Cable, 22 FCC Rcd 4547 (March 7, 2007), modified, 22 FCC Rcd 6707 (April 3, 2007). Unfortunately, the broadcast EEO enforcement program is a shell of its former self. In 2008, MMTC published the results of EEO enforcement analysis and found that between 1994 and 1997, 251 cases were decided, 86 of which resulted in forfeitures totaling $2,149,000, or $312,250 per year. Contrast this with the period between 2004 and 2007 where only 10 cases were decided, eight of which resulted in forfeitures totaling $97,000, or $24,250 per year. See Comments of the Minority Media and Telecommunications

investors of the potential for Performance Royalty legislation,[18] and outdated engineering rules.[19] These barriers inhibit minority broadcasters' ability to increase advertising revenue and gain access to capital, which in turn, limits their ability to serve their communities.

3. Do new media provide opportunities for entry by minorities and females?

New media certainly has had a profound impact on the viability of terrestrial broadcasting. The rise of new media as a means of accessing news, information, and entertainment, less advertising revenue is flowing to local broadcast television and radio station programming.[20] Yet entry barriers and discrimination have artificially reduced minorities' opportunities for success in new media. Earlier this year, the San Jose Mercury News reported

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Council in Response to the Third Report and Order and Fourth Notice of Proposed Rulemaking, MM Docket No. 98-204 (May 22, 2008), p. 8 (citing David Honig, "Are the Current FCC EEO Rules Effective?" FCBA CLE Program, February 12, 2008, p. 4) ("MMTC 2008 EEO Comments"). In 2008, EEO enforcement levels increased slightly, to 11 cases decided, six of which resulted in forfeitures totaling $71,000. However in 2009 EEO enforcement went almost to zero, with only three cases decided, resulting in forfeitures totaling $24,000. See Letter from David Honig, President and Executive Director, MMTC, to Hon. Julius Genachowski, MM Docket No. 98-204, Requesting a Three-Month Suspension of the Broadcast EEO Rule (June 29, 2010) ("MMTC June 2010 EEO Letter").

[18] See Comments of the Minority Media and Telecommunications Council in Response to the MusicFIRST Petition Regarding The Actions Of Certain Radio Broadcasters In Opposition To The Performance Rights Act, MB 09-143 (Sep. 7, 2009) at 1- 2 n.6 ("MMTC Performance Rights Comments"). MMTC has conservatively estimated that proposed versions of H.R. 848 and S.379 would throw at least one-third of minority owned stations into bankruptcy. Id. The National Association of Media Brokers ("NAMB") agrees, adding that "the imposition of a performance royalty on over-the air broadcast stations will be crippling to the broadcast industry in general, and be particularly devastating to minority broadcasters and other new entrants to the industry." Id. citing Letter to Hon. Nancy Pelosi from Richard L. Kozacko, Treasurer, NAMB, regarding Performance Royalty Impact on Minority and Small Market Rural Radio Stations (June 8, 2009) at 1.

[19] See MMTC Radio Rescue Petition for Rulemaking, Review of Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and to the Promotion of Diversity and Localism, RM-11565 (July 19, 2009) ("MMTC Radio Rescue Petition").

[20] See Sandoval Study at 5 (stating that in 2008, the first year that advertisers spent more money on the Internet than on radio, "Internet advertising revenue rose 10.6% to $23.4 billion while radio ad revenues fell 9% to $19.5 billion.")

that the employment rate for African Americans, Hispanics, and women in Silicon Valley companies is abysmal and declining rapidly.[21] There are no opportunities for entry where minorities are not employed or groomed for leadership positions. Other proceedings currently before the Commission threaten access to capital and access to opportunity for minorities and women in new media. Portions of the Commission's Open Internet proposals allow for ambiguous interpretations of the duties and obligations of broadband service providers, hindering strategic relationships with small, minority and women owned businesses that may involve equity or credit financing, marketing, incubation, and other business arrangements that allow for small, minority and women owned businesses to have access to these platforms.[22] The regulatory uncertainty created by these FCC proposals is an additional barrier to opportunity for minority and women owned new media ventures.

Digital media creates new opportunities to reach niche audiences on a larger scale. Yet while large cable, satellite, and telecom content providers are moving towards a digital technology system where carriage of new channels on these mediums will no longer be a spectrum capacity issue;[23] minority digital media entrepreneurs still encounter the same

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[21] 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/ci_14383730 (last visited July 1, 2010).

[22] See Reply Comments of the Digital Entrepreneurs In Response to Preserving the Open Internet, GN 09-191 (Apr. 26, 2010) at 5-8 ("Digital Entrepreneurs Reply Comments"). "…[T]hese relationships can help compensate for inadequate access to capital and other impediments to achieving the scale and scope these businesses need to compete domestically and globally." Id.

[23] See e.g., DTV. gov, What is DTV?, available at http://www.dtv.gov/whatisdtv.html (last visited July 8, 2010) ("…rather than being limited to providing one analog program, a broadcaster [post-DTV transition] is able to offer a super sharp High Definition (HD) digital program or multiple Standard Definition (SD) digital programs simultaneously through a process called "multicasting." Multicasting allows broadcast stations to offer several channels of digital programming at the same time, using the same amount of spectrum required for one analog program…").

challenges with respect to accessing capital.[24] Minority content providers cannot continue to be shut out of the new media sphere the way they have been shut out of broadcast and cable television in the past.[25]

B. Localism

1. How should the Commission define and measure localism as it applies to historically underserved minority communities? Are there aspects of localism that are relevant specifically to minority communities?

Localism refers to the practice of requiring broadcasters to provide their audiences with local news and information.[26] The purpose of localism is to not only provide relevant stories, but to promote diversity in programming and diversity in viewpoints.[27] Diversity, however, is diminishing due to consolidation of media, which reached an all time high in the last decade.[28]

The Commission has no way to definitively measure localism objectives because localism

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[24] See e.g., Bryan Monroe, Why New Media Looks A Whole Lot Like Old Media, The Huffington Post (Nov. 30, 2009), available at http://www.huffingtonpost.com/bryan-monroe/why-new-media-looks-a-who_b_374626.html (last visited July 8, 2010) ("For media entrepreneurs of color, access to capital and technology still remain big obstacles. In a good year, getting banks, angel investors and venture capitalists interested in any idea is difficult enough. But when they all run in circles that are often exclusive of people like me, gaining access to that access becomes nearly impossible.")

[25] See Comments of the Minority Media and Telecommunications Council, The Future of Media and Information Needs of Communities in a Digital Age, GN Docket No. 10-25 (May 7, 2010), pp. ii, 1-3 (describing the problems with traditional media programming and its extension into new media content. "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.")

[26] See NOI at ¶54; see also 2002 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket 02-277 et al. (Report and Order), 18 FCC Rcd 13620, 13644 ¶78 (2003).

[27] See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 389-395 (1969).

[28] See Media Mega Mergers: A Timeline, Common Cause, available at http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4923181.

is not clearly defined. Thus, in rulemaking proceedings, the Commission has reviewed licensees' selections of programming that are responsive to the information needs of the communities of license, local news quantity, and responsiveness to determine whether they are meeting local programming requirements.[29] However, those requirements are unstated and they resist articulation. Section 307(b) of the Communications Act only refers to localism as having a station physically located within a community; it does not address whether or not localism refers to actually serving the needs of the local community.[30] Minority communities will be better served if the Commission defines localism to include stations' duty to cater to the local community they serve, as opposed to simply being located in fixed tower sites in the community as the Commission has historically interpreted localism.[31] In this way, the Commission could provide more opportunities for minority broadcasters to better serve their communities by bringing relevant programming to their listeners.

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[29] See NOI at ¶54; 2002 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket 02-277 et al. (Report and Order), 18 FCC Rcd 13620, 13644 ¶78 (2003).

[30] See 47 U.S.C. §307(b).

[31] See NOI at ¶54 ("Historically, the broadcast regulatory framework has been designed to foster a system of local stations that provide programming responsive to the unique concerns and interests of the audiences with the stations service areas…The Commission has relied on two measures to determine whether licensees are meeting their local programming requirements: (1) the selection of programming responsive to local needs and interests of broadcasters' communities of license, and (2) local news quantity and responsiveness.") See also MMTC Radio Rescue Petition, pp. 14-17 (modify principal community coverage rules for commercial stations), 27-28 (create a new local "L" class of LPFM stations), 28-33 (relax the limit of four contingent applications), and 33-35 (relax the main studio rule).

2. Are there particular types of programming, including news and informational programming, which are specifically relevant to minority communities?

There are two aspects of localism that are of significant relevance to minority communities: the promotion of civic engagement and the creation of viewpoint diversity. Minority targeted local news impacts minority voter turnout;[32] without localism, minorities are at a greater risk of being left out of the political process because they are not being properly informed about election issues directly affecting their lives. For example, the 2006 Obeholzer-Gee and Waldfogel study cited in Byerly's Localism Study found that "Spanish-language news programs boost Hispanic turnout by 5 to 10 percentage points overall."[33] However, "those without access to local television news were significantly less likely to participate in elections."[34] These results build upon the authors' similar findings of a correlation between African-American targeted local media and African-American participation in elections.[35]

Furthermore, minorities are deprived of local programming aimed at their populations due to the Commission's current rules that require a station in each community of license.[36]

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[32] See Carolyn M. Byerly et al., Localism and the Ethnic Minority News Audience, pp. 6-7, available at http://www.allacademic.com/meta/p_mla_apa_research_citation/1/6/9/3/4/p169340_index.html (last visited July 7, 2010) ("Byerly Article") (citing Felix Obeholzer-Gee and Joel Waldfogel, Media Markets and Localism: Does Local News *En Espanol* Boost Hispanic Voter Turnout?, Working Paper 12317, National Bureau of Economic Research (2006), available for purchase at http://www.nber.org/papers/w12317 (last visited July 8, 2010) ("Obeholzer-Gee and Waldfogel Study")).

[33] Id. at 6 (quoting Obeholzer-Gee and Waldfogel Study at 11).

[34] See id. (citing Obeholzer-Gee and Waldfogel Study at 13).

[35] See Obeholzer-Gee and Waldfogel Study at 9 (citing Oberholzer-Gee and Waldfogel, 2005).

[36] 47 U.S.C. 307(b) (requiring "fair, *efficient*, and equitable" distribution of radio licenses) (emphasis added). See also MMTC Radio Rescue Petition, pp. 14-17 (the Commission should modify the principal community coverage rules for commercial stations), and 33-35 (the Commission should relax the main studio rule).

Because the Commission limits the number of stations allowed in certain areas, minority entrepreneurs are prevented from obtaining new or additional facilities that help them better serve communities typically overlooked by mainstream media.

The FCC should also take into account the different viewing patterns among minority subgroups as compared with the majority population. For example, African Americans are more likely to watch local news than are other groups,[37] and some Asian communities consume media at rates over twice as high as other Asian subgroups.[38] This type of data emphasizes how crucial preserving viewpoint diversity is because the groups that rely on general audience local programming should be just as informed as those receiving news from minority media sources.

In 1993, the D.C. Circuit of the U.S. Court of Appeals held that the FCC has established no nexus between local ownership and programming.[39] However recent studies provide evidence of the nexus between minority ownership and broadcasting programming that caters to minority audiences.[40] A study published in 2009 shows that approximately 73 percent of minority-owned stations serve the community by broadcasting minority oriented programming in "Spanish, Urban, Urban News, Asian, Ethnic and Minority-oriented Religious formats."[41] In Metro Broadcasting, the Supreme Court recognized a distinction between news content provided by minority owners versus non-minority owners, stating, "…minority-owned stations tend to

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[37] African-American Media Consumption Trends: Presentation to the Federal Communication Commission's Advisory Committee on Diversity for Communications in the Digital Age, BET Networks (June 15, 2010) at 6.

[38] See The Asian American Media, IW Group (2010) at 2 (on file with MMTC) (showing that Koreans, with the highest rate of consumption, consume media at a rate twice as high as Japanese, which have the lowest rate of media consumption among Asian Americans).

[39] Bechtel v. FCC, 10 F.3d 875, 878 (1993); cf. Metro Broadcasting v. FCC, 497 US 547, 581-582 (1990).

[40] Sandoval Study at 19-21.

[41] Id, at 19.

devote more news time to topics of minority interest and to avoid racial and ethnic stereotypes in portraying minorities."[42] In fact, when polled in a recent study, 12 percent of respondents said they believed news coverage of crime was especially biased.[43] Another 10 percent of respondents felt that the key to improving news is to have reporters actually enter their communities[44] - a criticism virtually never leveled against minority media, which almost always have their roots in minority communities. For example, in a comparison between a Black-owned TV station and a White-owned station located in Detroit, Michigan, it was found that "the overall mix of topic and location coverage between the two stations is statistically different, and with its higher use of blacks in newsmaker roles and its higher coverage of issues of racial significance, [the African-American-owned station's] content does represent a different perspective on news than [that of the white-owned station]."[45] Further, during emergency situations, minority media

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[42] Metro Broadcasting, 497 US at 581.

[43] See Carolyn M. Byerly et al,, Localism and the Ethnic Minority News Audience, p. 22 available at http://www.allacademic.com/meta/p_mla_apa_research_citation/1/6/9/3/4/p169340_index.html (last visited July 7, 2010) ("Significantly, perceptions of bias cut across educational and socio-economic levels. A Black female in Lamond Riggs neighborhood said "when a White person commits a crime, his face is not shown, but when the person is Black his face is always shown." A college-educated resident in Lamond Riggs neighborhood said he believed that the news media" have a lot of negative views of Black males." One long-time Columbia Heights resident complained that reporters "cover the murders of Black children differently from White children," meaning the latter get both more coverage and more sympathetic coverage. There was a general perception that minorities were depicted more negatively than Whites, and this perception was conflated with concerns about lack of accuracy and completeness.")

[44] See id. at p. 23 ("And, quite a few [respondents] expressed concern that reporters rarely came into their neighborhoods except to cover a crime, fire or other crisis, and then didn't seem to know much about them or the neighborhood. These participants (10%) said they wanted reporters to 'know us and our neighborhoods' better. Others (9%) said they wanted reporters to 'let residents in the neighborhoods speak for themselves more often.'")

[45] See M. Fife, The Impact of Minority Ownership On Broadcast Program Content: A Case Study of WGPR-TV's Local News Content, Report to the National Association of Broadcasters, Office of Research and Planning 45 (Sept. 1979)), cited in Metro Broadcasting, 497 U.S. at 583 n. 33.

outlets are likely to cover issues specific to their communities and report them to the general audience in a more sensitive manner.[46]

Minority oriented programming is profoundly important to minority communities. The Commission should ensure that its localism goals include rich diversity both in ownership and in management . Without minority participation at the local level, large segments of the American population will lose out on access to relevant programming that allows them to make informed decisions.

C. Diversity

1. What was the impact of the relaxation of the radio ownership limits mandated by Congress in 1996 on minority and women ownership of radio stations, and what studies have been done documenting that impact?

Research shows that the Commission's ownership rules negatively impact minority ownership. As discussed at pp. 6-7 and 11-14 supra, minority ownership is important because of the demonstrated nexus between minority ownership and the minority targeted programming[47] that minorities consume.[48]

During the Commission's Media Ownership workshops in 2009 and 2010, researchers alerted the Commission to their challenges in obtaining data to conduct studies on media

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[46] See LaVonda N. Reed-Huff, Radio Regulation: The Effect of a Pro-Localism Agenda on Black Radio, 12 Wash. & Lee J. Civil Rts. & Soc. Just. 97, 102 (2006) (citing Brian Skoloff, Ethnic Media Find New Angle on Katrina, MSNBC, Sept. 12, 2005, http://msnbc.msn.com/id/9316248 (last visited July 8, 2010)) (discussing how in the aftermath of Hurricane Katrina, Asian and African-American media outlets reported on how the media served the community and how the two communities helped one another through the crisis).

[47] See Sandoval Study at 20.

[48] See Pew Study at 60.

ownership.[49] As discussed at pp. 11-14 supra, the Sandoval Study illustrates the nexus between minority radio ownership and minority-oriented content, a trend that spans over thirty years.[50] Of minority-owned stations:

- 291 broadcast Spanish formats;
- 135 broadcast Urban/African American oriented formats including 6 that air Urban News/Talk formats;
- 28 broadcast Asian community oriented formats;
- 14 broadcast various minority oriented formats through brokered programming agreements;
- 144 broadcast Gospel and Spanish Christian programming; and
- There is evidence that general format stations controlled by the Navajo Nation broadcasts information in English and Navajo.[51]

This data is even more relevant given the recent Pew research that evinces the importance of minority-oriented programming to minority communities: 62 percent of African American respondents regularly consume Black radio news or talk programs, 60 percent read African American oriented magazines, 28 percent read targeted newspapers and 30 percent read minority-oriented blogs.[52]

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[49] For example, during the Commission's initial workshops to review the Quadrennial Review, several panelists including Catherine Sandoval, Law Professor at Santa Clara University, Andrew Schwartzman, then President of Media Access Project, and Kristin Thomson, Education Director, Future of Media, discussed the lack of available and accessible data. See Statement of Catherine J.K. Sandoval, Federal Communications Commission Media Ownership Workshop: Policy Scholars Panel (Nov. 2, 2009), available at http://www.fcc.gov/ownership/workshop-110209/sandoval.pdf (last visited July 6, 2010); see also Statement of Andrew Schwartzman, Federal Communications Commission Media Ownership Workshop: Public Interest Group Panel (Nov. 3, 2009), available at http://www.fcc.gov/ownership/workshop-110309/schwartzman.pdf (last visited July 6, 2010); see also Statement of Kristin Thomson, Federal Communications Commission Media Ownership Workshop: Public Interest Group Panel (Nov. 3, 2009), available at http://www.fcc.gov/ownership/workshop-110309/thomson.pdf (last visited July 6, 2010).

[50] See Sandoval Study at 20.

[51] See id. at 20-23.

[52] See Pew Study at 60.

2. Do the Commission's structural media ownership rules have an effect on broadcast ownership by minorities, women, and small businesses?

The Commission's structural ownership rules impact small, minority, and women-owned broadcasters. In previous media ownership proceedings, MMTC exhaustively described the present effects of past discrimination – discrimination that first prohibited minority participation in the broadcast industry and later left minorities with technically inferior stations.[53] Further consolidation can exacerbate the impact of past discrimination by relegating minorities to weaker bargaining positions as a result of late-entry and inferior technical facilities.[54]

Of the 815 minority controlled radio stations identified in the Sandoval Study, there are 324 minority owners – 139 Hispanic, 129 African American or Pacific Islanders, 34 Asian American, and 14 Native American owners.[55] According to the Sandoval Study, minority entry into radio ownership was easier between 1978 and 1995, when the Tax Certificate Policy was in effect:[56] "Of the 324 minority commercial radio *owners* in mid-2009, 172 or 53% were awarded their *first license prior to the 1996 Act*. Of the 815 minority commercial radio *stations* still held in mid-2009, 287 or 35% were obtained before the 1996 Act."[57] Further, the majority of the

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[53] See Initial Comments of the Diversity and Competition Supporters, 2002 Biennial Regulatory Review et al., MB Docket No. 02-277 (Jan. 2, 2003), pp. 19-34 (detailing how societal discrimination and government inaction caused minorities disproportionate ownership of stations with weak technical facilities and relative exclusion from broadcast ownership) ("2002 Biennial Review Comments").

[54] See id at 36-39 (warning of the Commission of the impact of deregulation and how discrimination is perpetuated by consolidation, advertising discrimination, lack of access to capital, lack of notice of sales, and tax policies – all of which coalesce to make it more difficult for minority entrepreneurs to acquire broadcast facilities).

[55] See Sandoval Study at 7.

[56] See supra n. 7 (discussing the repeal and impact of the tax certificate policy).

[57] Id.

minority owners identified own only one station.[58] In the past, limits on multiple ownership assisted minority ownership by providing owners of a single station with an opportunity to compete against like-sized rivals.[59] The Government Accountability Office (GAO) summarized findings by the FCC, NTIA, and industry interviewees that identified consolidation after 1996 as a threat to minority and women ownership.[60]

D. Potential Conflicts Among Goals: How Should The Commission Weigh Competition, Localism, and Diversity Goals When They Conflict?

Each of the Commission's stated goals is critical to increasing ownership diversity and minority participation in the media. However, these goals can come into conflict. For example, minority owned stations' needs to relocate closer to large urban population centers in order to

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[58] See id. at 12 ("Among minority commercial radio owners in mid-2009, 61%, or 198, control only one station.")

[59] See id. ("From 1953 to 1985, FCC rules permitted common control of no more than seven FM radio stations, seven AM radio stations and seven television stations nationally and *one* station within a local market…. This permitted single station owners to enter unconsolidated markets and establish a foothold for service that many minority broadcasters rely on today.") See also S. Derek Turner & Mark Cooper, Out of the Picture 2007: Minority & Female TV Station Ownership in the United States, Free Press (Oct. 2007) ("Out of the Picture 2007") at 26 ((Free Press' study found, in the context of commercial television, that "even when holding market and station characteristics constant, as a market becomes more concentrated, a station is significantly less likely to be minority-owned. Similarly, holding market characteristics constant, as a market becomes more concentrated, the probability that a particular *market* will have a minority-owned station is significantly lower…").

[60] See Media Ownership, Report to the Chairman, Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, House of Representatives, GAO-08-383 (March 2008) p. 24, available at http://www.gao.gov/new.items/d08383.pdf (last visited June 27, 2010). The interviewees that discussed consolidation as a barrier explained, "…the scale of current ownership mattered in several important ways. First, few stations are made available for purchase, limiting opportunities for the entry of new owners, such as minorities and women. Second, incumbent owners may prefer to trade stations with other incumbent owners rather than sell stations…. Third, when stations become available for sale, investors and other financing entities prefer multiple station purchases rather than single station purchases in order to capture economies of scale… Lastly, the scale of the industry affects the viability of current and prospective minority and women owners, since these owners must often compete with large conglomerate owners with sizable market share and greater resources." Id.

survive may, at times, conflict with the Commission's goal of having a locally-licensed station in exurban towns.[61]

Given the current state of minority and female ownership, diversity should be the Commission's top priority. Diversity improves competition by adding inputs that encourage healthy financial and programming markets. These inputs may be in the form of new owners in the market, or increased variety in local, minority targeted programming. Further, the Commission's position on diversity has a clarity that is not found in its position on localism, as discussed at pp. 10-11 supra. Regulations based on clear reasoning and definitions are more likely to be readily accepted by the industry and less likely to face judicial scrutiny.

E. Other Policy Goals

In determining ownership limits in this proceeding, the Commission seeks comment on whether it should consider any other policy goals, in addition to competition, diversity, and localism goals.[62] Two important policy goals for the Commission to consider are to remedy present effects of past discrimination and to prevent future discrimination. The Commission has a long history of erecting market entry barriers that act to keep minorities out of the media industry.[63] Since 1982, when the Commission relaxed its attribution rules to facilitate

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[61] See discussion in the MMTC Comments on Radio Rescue Petition, RM-11565, (Oct. 3, 2009), pp. 2-5.

[62] NOI at ¶78.

[63] See 2002 Biennial Review Comments at 20-31 (citing, inter alia, Southland Television Co., 10 RR 699 (1955) (holding that the owner of segregated movie theaters had the character necessary to be issued a television construction permit because state segregation laws were not inconsistent with the Communications Act); The Columbus Broadcasting Company, Inc., 40 FCC 641 (1965) (issuing only an admonishment in response to the FBI's well-documented allegation that a radio licensee helped incite the 1962 riot in which Whites tried to prevent James Meredith from integrating the University of Mississippi (two people were killed)); NBMC, 61 FCC2d 1112 (1976) and Citizens Communications Center, 61 FCC2d 1095 (1976) (refusing, after an unexplained 3 1/2 year delay, to adopt any of 61 proposals to advance minority participation in the electronic mass media).

investments in minority owned media,[64] the Commission has done little to incentivize minority media ownership. Seventy-two proposals to advance minority ownership are pending at the Commission.[65]

The Commission's failure to remedy present effects of past discrimination is clearly exemplified by the paltry number of minorities in media ownership. For example, in 2007, it was reported that while minorities made up 34% of the total population, they owned only 3.15% of broadcast television stations.[66] Minorities owned only 7.24% of full power commercial broadcast radio stations in 2009[67] - down from the 7.76% they owned in 2007.[68] The Commission has a compelling interest in promoting diversity in ownership and it can do this by granting licenses to applicants who are economically and socially disadvantaged and have made progress overcoming those disadvantages.[69] Doing so would not only create a more diverse landscape of media ownership, but it would further the Commission's interest in promoting competition.[70]

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[64] See Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, 92 FCC2d 849, 861 ¶23 (1982) (As a result of this Policy Statement, the Commission began to consider: "(1) Issuing tax certificates and authorizing distress sales in transfers to limited partnerships where a minority general partner (or partners) owns more [than] 20 percent of the broadcasting entity; and (2) Issuing tax certificates to shareholders upon divestiture of their interest in minority controlled broadcasting entities where divestiture furthers minority ownership…").

[65] See 72 Pending Proposals, supra n. 9.

[66] See Out of the Picture 2007 at 2, 14.

[67] Sandoval Study at 4, 8.

[68] See Sandoval Study at 7 (citing S. Derek Turner, Off the Dial: Female and Minority Radio Station Ownership in the United States, Free Press, p. 16 (2007)).

[69] FCC Advisory Committee on Diversity for Communications In The Digital Age: Report and Recommendation of The Subcommittee on Eligible Entities, 20-21 (Oct. 22, 2008), available at http://www.fcc.gov/DiversityFAC/102808/eligible-entities-report-102808.pdf (last visited July 7, 2010) ("Eligible Entities Report").

[70] Id. at 22.

The Commission has a duty to regulate communications "…without discrimination on the basis of race, color, religion, national origin, or sex."[71] To prevent discrimination, the Commission should exercise its authority to enforce EEO rules.[72] The Commission has failed to enforce these rules, as it has been over a year since the Commission has released any EEO decisions.[73] MMTC has taken the extraordinary step of recommending that the Commission suspend EEO enforcement for three months while it revitalizes its EEO enforcement program.[74]

In response to the 2006 Quadrennial Review, DCS offered the Commission and industry 38 proposals to increase minority and women broadcast ownership.[75] Many of these proposals, and other similar proposals to advance minority and women participation in the broadcast industry, remain pending before the Commission today.[76] It is past time for the Commission to act on these proposals and work to promote minority ownership.

II. The Impact of Broadband on Broadcasting

Does access to broadband affect the Commission's policy goals? How does access to audio and video content available over broadband factor into the Commission's competition analysis?

Access to broadband provides more platforms for consumers to use multichannel content such as DTV subchannels, thus allowing for more exposure to diverse programming. Programs from DTV and FM subchannels can be streamed online. Some broadcasters use their DTV and

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[71] 47 U.S.C. §151 (2006).

[72] Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (R&O), 15 FCC Rcd 2329 (2000) ("2000 EEO Rules").

[73] See MMTC June 2010 EEO Letter at 1.

[74] Id. at 4.

[75] See Initial Comments of the Diversity and Competition Supporters in Response to the Second Further Notice of Proposed Rulemaking, 2006 Quadrennial Regulatory Review et al., MB Docket No. 06-121 (Oct. 1, 2007).

[76] 72 Pending Proposals, supra n. 9.

FM subchannels to attract more listeners by streaming over the Internet.[77] These broadcast subchannels could act as a point of entry for minority broadcasters, who, as mentioned at pp. 14-16 supra, are more likely to provide targeted programming relevant to minority audiences. Such programming is necessary to attract those who do not otherwise find value in having a broadband connection at home,[78] thus providing additional support for the National Broadband Plan's goal of achieving universal broadband access and use.[79]

The Commission should be mindful that it is very difficult to secure financing for leased facilities such as those operated through LMAs. However, financing is available to owners.

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[77] For example, WHUR-FM and WVRW-FM, both stations in the Washington DC metropolitan area, broadcast, or stream, an HD subchannel over the Internet to provide a wider variety of programming to audiences outside their main demographic. WHUR, an Urban Adult Contemporary stations offers "an alternative multicast of programming that entertains, educates, addresses social problems, and provides context for a mature adult listening audience." See WHUR World, available at http://www.whurworld.com/ (last visited July 6, 2010). WVRW, formerly Smooth Jazz station WJZW, broadcasts Classic Rock as its primary format and Smooth Jazz on its HD subchannel. See Classic Rock that Rocks 105.9, available at http://www.theedge1059.com/ (last visited July 6, 2010) and Smooth Jazz 105.9 HD2, available at http://www.smoothjazz1059.com/ (last visited July 6, 2010).

[78] "A perceived lack of relevance continues to be a major reason why some are still not actively using the Internet." 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) at 4, available at http://www.jointcenter.org/publications1/publication-PDFs/MTI_BROADBAND_REPORT_2.pdf (last visited July 6, 2010); see also John P. Gant, Nicol E. Turner-Lee, and Ying Li, National Minority Broadband Adoption: Comparative Trends in Adoption, Acceptance and Use, Joint Center for Political and Economic Studies, Presentation to the Advisory Committee on Diversity for Communications in the Digital Age (March 24, 2010) at 17, available at http://www.fcc.gov/DiversityFAC/032410/media-tech-institute-report.pdf (last visited July 6, 2010) (showing that 44% of African Americans, 41% of Hispanics and 42% of Whites surveyed found no compelling reason to use broadband Internet).

[79] See Connecting America: The National Broadband Plan (Mar. 2010) at 9-11 (providing overview of the Commissions goals, including universal broadband access).

Therefore the Commission should grant DCS' proposals, pending since 2008,[80] to allow DTV and FM stations to sell subchannels to new entrants, particularly minority entrepreneurs.[81]

III. After 20 Years, The Commission Should Adopt A Media Incubation Plan

In the 2002 and 2006 Ownership Review proceedings, DCS presented a proposal for structural rule waivers for creating incubator programs.[82] An incubator program would allow a company to acquire more than the otherwise-allowable number of stations in a market if the company establishes a program that substantially promotes ownership by disadvantaged businesses. As envisioned by the Commission in 1992, incubator programs could encompass management or technical assistance, loan guarantees, direct financial assistance through loans or equity investment, training and business planning assistance.[83]

Despite the absence of any opposition, the Commission has yet to act on the proposal that has actually been pending before the Commission for twenty years in six consecutive dockets.[84]

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[80] See Diversification of Ownership In the Broadcasting Services, 2006 Quadrennial Regulatory Review, Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5952 ¶87 (2008) (seeking comment on HD radio share time proposals).

[81] See DCS 2007 Ownership Comments at 41-47; see also 2008 Ownership Comments at 14-16.

[82] See 2002 Biennial Review Comments at 104-105; DCS 2007 Ownership Comments at 11-14. See also Supplemental Ex Parte Comments of the Diversity and Competition Supporters in Response to the Second Further Notice of Proposed Rulemaking, MB Docket No. 06-121 (Nov. 20, 2007) at 19-21 ("2007 Supp. Comments") and 2008 Ownership Comments at 19-21 (refining the incubator proposal).

[83] See Revision of Radio Rules and Policies, MM Docket 91-140 (Reconsideration), 7 FCC Rcd 6387, 6391-92 ¶¶22-25 (1992) ("Radio Rules – Reconsideration").

[84] After being put out for comment in 1992 in Radio Rules – Reconsideration, the incubator proposal was rolled into a minority ownership docket. See Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities MM Docket No. 94-149 (NPRM), 10 FCC Rcd 2788, 2791-94 ¶¶15-24 (1995) ("1995 Minority Ownership NPRM"). That docket lay fallow for seven years, and in 2002 it was quietly terminated in a ministerial order. Termination of Stale or Moot Docketed Proceedings (Order), 17 FCC Rcd 1199, 1205 (2002). Meantime, the incubator proposal was being considered in yet another docket, which focused entirely on radio ownership. Multiple Ownership of Radio Broadcast Stations in Local Markets, MM Docket 01-317 (NPRM), 16 FCC Rcd 19861 (2001) (which did not even mention minority ownership, but

The proposal was first offered in 1990 by the National Association of Black Owned Broadcasters (NABOB) through Chairman Sikes' Minority Ownership Task Force and later endorsed by all five commissioners in 1992,[85] by a new set of five commissioners in 1995,[86] and by the Commission's Advisory Committee for Diversity in Communications in the Digital Age ("Advisory Committee on Diversity") unanimously in 2004.[87]

DCS suggested limited modifications to the proposal including additional steps that might qualify toward an incubation credit.[88] These could include the creation of a business planning center at a Historically Black College or University ("HBCU"), Hispanic Serving Institution ("HSI"), Asian American Serving Institution ("AASIs"), and Native American Serving Institution ("NASI"); new training programs, modeled after the NAB Foundation's Broadcast Leadership Training (BLT) Program; a large, easily accessible line of credit that socially and economically disadvantaged businesses ("SDBs")[89] could draw upon in financing

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since the proposal fell within the scope of the proceeding it was filed in the docket by MMTC). A year later, Docket 01-317 was rolled into a fourth proceeding, the 2002 Biennial Review. Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 (NPRM), 17 FCC Rcd 18503, 18506 ¶7 (2002) ("2002 Biennial NPRM"). The proposal was again presented as part of the 2006 Quadrennial Review. See Diversification of Ownership In the Broadcasting Services, 2006 Quadrennial Regulatory Review, Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5946-47 ¶69 (2008).

[85] See Radio Rules – Reconsideration, 7 FCC Rcd 6391-92 ¶¶22-25.

[86] See Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities MM Docket No. 94-149 (NPRM), 10 FCC Rcd 2788, 2791-94 ¶¶15-24 (1995) ("1995 Minority Ownership NPRM").

[87] DCS 2007 Initial Comments at 12 (citing Advisory Committee on Diversity, Financial Issues Recommendations (June 14, 2004), pp. 17-18; see also White Paper on Incentive-Based Regulations (May 23, 2004), pp. 6-7).

[88] See 2007 Supp. Comments at 6-7; see also 2008 Ownership Comments at 19-21 (refining the incubator proposal).

[89] The Commission currently qualifies eligible entities as small businesses according to the Small Business Administration ("SBA") definition, not as SDBs, which includes a race-conscious

broadcast ventures; and financial investments in SDBs, including mentoring by senior professionals who wish to convey their knowledge and experience to subsequent generations.[90]

DCS also suggested a "Trial Incubation Plan" that would be limited to large markets and narrowly tailored to maximize the likelihood of successful minority inroads into ownership, while minimizing the risk of excessive consolidation.[91] However, given the state of minority ownership and the relatively few opportunities to enter the market, we propose that the incubation proposal apply to all markets at this time, including the additional steps mentioned above that might qualify toward an incubation credit. As stated in DCS' 2008 Comments, incubation would be deemed sufficient to justify the incubating party's purchase of an additional station when the steps to be taken by the incubating party will definitely bring into existence an SDB-owned station in the same service (AM or FM) and in the same market or a market of approximately the same size (for example – modified here somewhat more liberally than in the DCS 2008 proposal - a purchase in market 2 and incubation in any of markets 1-10; a purchase

component. See Broadcast Diversity Order, 23 FCC Rcd at 5925-26 ¶¶6-7. The small business definition was adopted to avoid creating a race-conscious classification, but in practice it is so dilute that it does virtually nothing to promote minority or women ownership. Id., see also DCS Ownership 2008 at 6. In 2008, the Diversity Committee recommended that the Commission substitute a race-neutral Full File Review ("FFR") program for the small business-based eligible entity paradigm it adopted until the agency can update existing disparity studies necessary to develop a constitutionally sustainable SDB program. Eligible Entities Report at 30-31. The FFR proposal is still under consideration by the Commission.

[90] DCS 2007 Initial Comments at 13. AASIs and NASIs were not included in DCS' prior proposals, but are included now to encompass more diverse ownership in line with the Commission's goals in this proceeding.

[91] DCS 2007 Supp. Comments at 6-7. The Trial Incubation Plan would be focused only on the local radio ownership rule, 47 C.F.R. §73.3555(a) (including both the local radio ownership caps and the AM/FM subcaps, which limit the number of AM or FM stations an entity may own in a local market) in large markets.

in market 10 and incubation in any of markets 1-20; a purchase in market 20 and incubation in any of markets 1-30).[92]

To assure that the incubation is sufficient in impact, the events in the two markets would be contingent on one another. Thus the incubated station relationship would come into being simultaneously with, the incubating party's transaction, and the incubating party would make a substantial contribution to the success of incubated venture – inter alia, by selling the incubated party a station, guaranteeing its senior debt, or providing mezzanine financing.

CONCLUSION

With this latest review of the Commission's media ownership rules, the agency has an opportunity to remedy over a decade of declining minority participation in the media markets. We urge the Commission not to squander this opportunity. Minority entrepreneurs need relief now. The Commission should approach this proceeding with the same sense of urgency for minority ownership as it affords broadband and new media matters.

[92] DCS Ownership 2008 Comments at 21. Ideally the incubating company's station and the incubated company's station would be in the same market. However, similar stations are not always available simultaneously in the same markets. Therefore allowing incubation in similar markets and designing a program that would result in numerous incubations would, over time, result in SDBs acquiring stations and thus advancing diversity in a great many markets, including those in which incubating parties have operated or acquired stations through the incubator plan.

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APPENDIX

THE DIVERSITY AND COMPETITION SUPPORTERS (DCS)

Asian American Justice Center
Center for Asian American Media
Independent Black Broadcasters Association
Minority Media and Telecommunications Council
National Association of Black Telecommunications Professionals
National Association of Latino Independent Producers
National Council of La Raza
National Urban League
Rainbow PUSH Coalition
Women's Institute for Freedom of the Press