

February 16, 2010

Hon. Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

RE: The FCC's Civil Rights Record and Overdue
Section 257 Triennial Report to Congress

As you know, in Section 257 of the Communications Act, Congress requires the Commission to submit triennial reports "identifying and eliminating...market entry barriers for entrepreneurs and other small businesses...." The Commission submitted the required reports for 1997, 2000, 2003, and (several months late) 2006, but the Commission has not yet submitted its 2009 Report.

From your eloquent letter of January 5, 2010 to Henry Rivera, Chair of the Advisory Committee on Diversity for Communications in the Digital Age, we know that you share our concern for the fact that minority ownership and employment in our industries are *de minimis* and in many respects nearing extinction. Minority television ownership has decreased by 50% since 1999. Minority radio ownership has declined by 9% just within the last three years. Minority wireless and cable system ownership levels are near zero. Finally, minority radio journalism employment has plummeted to less than 1%, a level not seen since 1950.

It is therefore unfortunate that, in 2009, the Commission failed to vote on any of the dozens of pending proposals to advance minority ownership and participation in the industries the Commission regulates, including proposals endorsed by the Advisory Committee on Diversity for Communications in the Digital Age (<http://www.fcc.gov/DiversityFAC/>). The following examples illustrate the Commission's shortcomings in areas of concern to us. The FCC has failed:

- To adopt any of the two dozen proposed noncontroversial initiatives that would give minority businesses an opportunity to acquire FCC-licensed assets.
- To restore minimal enforcement of the broadcast Equal Employment Opportunity (EEO) Rule, and to assign a compliance officer to the 2007 Advertising Nondiscrimination Rule which, if it were enforced, could restore to minority broadcasters the approximately \$200 million every year that they forego because of racial discrimination by advertisers.
- To hold a hearing on Arbitron's "Portable People Meter" (PPM) audience measurement technology.
- For the fifth straight year since Hurricane Katrina – to act on the Spanish Radio Association/United Church of Christ/MMTC petition to provide for the multilingual broadcasts of emergency information. The September 8, 2009 "FCC Preparedness for Major Public Emergencies" Report did not even mention this critical issue.
- To repeal the 2006 Designated Entity rules that have decimated minority wireless ownership: of the \$19 billion fair market value of licenses sold in Auction 73 last year, minorities acquired \$5 million, or less than three-hundredths of one percent of the total value of those licenses.

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- To include even a mention of minorities or minority business enterprises in the December 2009 National Broadband Plan Framework – ignoring the transcripts from four staff workshops and two field hearings at which the witnesses focused on minority cyberpreneurship.
- To support the only remaining federal initiative aimed at promoting minority and women media and telecom ownership – the Telecommunications Development Fund. Nowhere in the Commission’s 2009 legislative recommendations was support for this vital initiative mentioned. In fact, on January 28, the Administration – without consulting with diversity advocates – proposed a budget that would eliminate the Fund entirely. The budget narrative suggested that a proposed loan program and, even more implausibly, the USF are adequate substitutes for this equity fund for new entrants.

To advance the civil rights objectives of the agency and the administration, we would be glad to assist the Commission with a comprehensive review of what can be done in 2010 to promote minority ownership and equal employment in the telecommunications sector. We specifically ask that you place on the agenda of the Commission’s April 2010 public Commission meeting a Report and Order adopting several of the dozens of long-pending, fully briefed and virtually unopposed proposals to advance media and telecom ownership diversity.

Sincerely,

Asian American Justice Center
Black College Communication Association
The Hispanic Institute
Hispanic Technology and Telecommunications Partnership
International Black Broadcasters Association
Latinos in Information Sciences and Technology Association
Lawyers’ Committee for Civil Rights Under Law
League of United Latin American Citizens
Minority Media and Telecommunications Council
National Association of Black Owned Broadcasters
National Association of Black Telecommunications Professionals
National Association of Latino Independent Producers
National Association for the Advancement of Colored People
National Black Coalition for Media Justice
National Coalition on Black Civic Participation-Black Women’s Roundtable
National Congress of Black Women, Inc.
National Council of La Raza
National Puerto Rican Coalition
National Urban League
Rainbow PUSH Coalition
Spanish Broadcasters Association
United States Hispanic Chamber of Commerce
UNITY: Journalists of Color

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cc: Senator Robert Menendez
Congressman Bobby L. Rush
Congressman Edolphus Towns
Congressman G.K. Butterfield
Delegate Donna M. Christensen
Hon. Michael J. Copps, Commissioner, FCC
Hon. Robert McDowell, Commissioner, FCC
Hon. Mignon Clyburn, Commissioner, FCC
Hon. Meredith Attwell Baker, Commissioner, FCC
Hon. Calvin Smyre, President, National Black Caucus of State Legislators
Hon. Iris Martinez, President, National Hispanic Caucus of State Legislators
Hon. Robin Read, President, National Foundation of Women Legislators
Hon. Sharon Weston-Broome, President, National Organization of Black Elected
Legislative Women
Hon. Robert Steele, President, National Association of Black County Officials
Hon. Sergio Rodriguez, President, Hispanic Elected Local Officials
Hon. Samuel Audwin, President, National Black Caucus of Local Elected Official
Hon. George Grace, President, National Conference of Black Mayors

ccs to FCC Dockets:

GN 09-51 (National Broadband Plan)
MB 09-817 (Portable People Meter)
MB 07-294 (Broadcast Diversity)
EB 06-119 (Hurricane Katrina Independent Panel)
WT 05-211 (Designated Entities)
EB 04-296 (Emergency Alert System)
MM 98-204 (Broadcast EEO)
RM-11565 (MMTC Radio Rescue Petition)

The contact person for this letter is David Honig, President and Executive Director, Minority Media and Telecommunications Council, 3636 16th St. N.W., #B-366, Washington, DC 20010, (202) 332-7005 and dhonig@crosslink.net.