



**Minority Media & Telecommunications Council**  
3636 16<sup>th</sup> Street N.W. Suite B-366  
Washington, D.C. 20010  
Phone: 202-332-0500 Fax: 202-332-0503  
www.mmtconline.org

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### **STATEMENT OF MMTC ON THE SUPREME COURT'S SCHOOL DESEGREGATION DECISION**

Washington, D.C. (June 28, 2007) – Today's Supreme Court decision in the Seattle and Louisville school desegregation cases does nothing to diminish the indispensability of minority owners and managers in communications.

In their *amicus* brief in the Supreme Court cases, 24 media and telecom companies declared that the multicultural competence students acquire in integrated schools provides "a key competitive advantage, especially in the creative fields of media and telecommunications." In like manner, all Americans benefit from diversity in the media and telecom industries, which are so vital to our democracy, culture, defense and social cohesiveness.

The Court did not shut the door to minority ownership and EEO policies that promote diversity, prevent discrimination, remedy the effects of past discrimination, or promote competition. While noting that racial progress has been made in society, Justice Kennedy's separate statement encouraged us all "to recognize and confront the flaws and injustices that remain . . . . The enduring hope is that race should not matter; the reality is that too often it does." Justice Kennedy specifically concluded that "[d]iversity . . . is a compelling educational goal a school district may pursue" and reaffirmed the vitality of Grutter v. Bollinger, the 2003 decision that held that diversity in higher education can be a compelling governmental interest. That bodes well for the sustainability of FCC diversity initiatives, since the media and telecom industries, with their socializing and educative roles, are close constitutional cousins of higher education.

In the wake of the Court's decision, MMTC will ask Congress to hold oversight hearings on the FCC's minority ownership and EEO policies. Recent studies by Free Press on minority ownership, and by RTNDA on EEO, show disturbingly low levels of diversity. FCC EEO enforcement is so underfunded that the Commission's most significant EEO decision in five years (RCN Corp., released June 22, 2007) ordered no sanctions because the statute of limitations had expired two years earlier. Further, the FCC still has not ruled on MMTC's August 23, 2006 motion asking the FCC to seek comment on 14 minority ownership proposals. In 2004, the Third Circuit required the FCC to consider these proposals after an earlier Commission ignored them.

Since 2001, the FCC has refused to keep track of minority and female broadcast employment, has not accurately tracked minority ownership, and has declined to monitor the impact of its decisions on minority ownership. Fortunately, in today's decision, five justices affirmed that the government may maintain data on race and may devise race-conscious measures to address the problem of lack of diversity in schools. The same must be true for the FCC. Now that these issues are settled, the FCC should resume the EEO data collection program it operated from 1971-1997, issue full and accurate minority ownership reports, consider the impact of its decisions on EEO and minority ownership, and move immediately to adopt policies that will fully diversify the media and telecom industries.