Minority Media & Telecom Council

3636 16th Street N.W. Suite B-366
Washington, D.C. 20010
Phone: 202-332-0500 Fax: 202-332-7511
www.mmtconline.org

Getting the MMTC Story Straight: A Rebuttal to CPI's Swift Boating of MMTC

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Last June, the Center for Public Integrity (CPI) posted, and *The Huffington Post* re-posted, a false and misleading story that has recently been quoted in numerous other media outlets as truth. A number of recent posts on the FCC's open Internet debate link to this wholly untrue article, requiring us to set the record straight rather than leave these false statements unanswered on the record.

Why CPI's Story Is False

On most communications policy issues, MMTC usually concurs with the primarily non-minority public interest advocacy groups – but not always. CPI's storyline was fed to it by other advocacy groups in an attempt to discredit MMTC for disagreeing with them on three issues that are aligned with our mission. Those issues were:

1. Whether newspaper-broadcast cross-ownership rules should be relaxed to enable broadcast companies to help save dying local newspapers and preserve in-depth reporting on such issues as voter protection and public schools – so long as relaxed cross-ownership rules do not diminish minority ownership;

2. Whether the Internet should be regulated under a formulation of smart net neutrality rules that protect consumers, but also facilitate job creation, innovation, affordability, and minority entrepreneurship; and

3. Whether, in 2011, AT&T's proposed merger with T-Mobile would have been justified by benefits to minority consumers in the form of faster network buildout, jobs, and entrepreneurial opportunities.

MMTC's positions on these issues – and all issues for that matter – were formed by its Board of Directors after extensive due diligence. Our mission – promoting diversity and inclusion for minorities in media and telecom entrepreneurship and employment, and closing the digital divide – is paramount. We support policies that will generate jobs, entrepreneurship, and wealth creation to enable people of color to attain first class citizenship and financial independence.

Several of the leading public interest advocacy groups have a different mission, so sometimes the policy positions they prioritize are different from MMTC's. However, CPI incorrectly assumed that these advocacy groups are better qualified than MMTC to evaluate what policy positions best serve the interests of the minority community and other marginalized groups.

Setting the Record Straight

The truth is that MMTC has never allowed funding considerations to enter into its substantive policy analysis. Despite its months-long investigation, CPI presented no evidence – nor is there any – that MMTC committed any impropriety or made a single policy decision to satisfy donors.

MMTC's Positions On The Three Telecom Policy Issues That Were Under Attack In The Article

The CPI "witch hunt" appears to be the result of MMTC's positions on a handful of communications policy issues that differed from the positions taken by some public interest advocacy groups. Here's the real story behind these positions, all of which have been in the public record and are easily accessible online:

- **Newspaper-Broadcast Cross-Ownership**

Evidently, the primary impetus for the CPI story was to discredit MMTC in the aftermath of the May 30, 2013, release of an MMTC-commissioned study by BIA Kelsey on the impact of the media cross-ownership rules on minority ownership. The story leads with a statement that then-FCC Chairman Julius Genachowski's proposal to relax the radio-newspaper cross-ownership rule "received support from a curious source: the Minority Media and Telecommunications Council, once an ardent critic of industry consolidation."

The story is false and misleading in numerous respects. Chairman Genachowski did not receive support from MMTC for his proposal. Instead, MMTC and more than 50 organizations that joined MMTC commented that they did not oppose the FCC's proposed limited relaxation of the newspaper-radio cross ownership rule if, "as applied, it would not diminish minority ownership." After concerns surfaced about this position, MMTC commissioned BIA Kelsey's independent and peer-reviewed study that confirmed the reasonableness of this position. MMTC paid for the study using its own funds and neither solicited nor received direct or indirect support for the study.

Additionally, CPI knew but failed to report that MMTC is still very much an ardent critic of industry consolidation, as we have opposed relaxation of every one of the other FCC rules that limit media consolidations with the limited exception of the newspaper-radio cross-ownership rule. MMTC continues to oppose relaxation of local radio caps and subcaps, TV duopolies, TV joint sales agreements and shared services agreements, and dual network ownership. MMTC believes that the relaxation of any of those other FCC rules would clearly diminish minority ownership. Virtually all of the public interest advocacy groups agree with MMTC about this. And virtually every media corporation that donates to MMTC disagrees with MMTC about this. Finally, in recent months, MMTC has abandoned the cross-ownership issue inasmuch as industry economic conditions no longer make cross-ownership a viable method of saving newspapers.

- **Net Neutrality**

CPI claimed in their article that MMTC "sided with the Internet service providers" on net neutrality and that MMTC received "contributions and sponsorships from network neutrality foes."

CPI failed to note that MMTC's position on net neutrality mirrors the position of nearly all of the mainstream civil rights organizations that weighed in on this issue. When the FCC adopted its 2010 net neutrality rules, MMTC endorsed them unequivocally, as did numerous other national civil rights organizations, some public interest advocacy organizations such as Public Knowledge, and Democratic congressional leadership with expertise on the topic. Some thought those rules were too weak, and some thought they are too strong. Verizon, which CPI claimed was ostensibly providing financial support to MMTC for this issue, took the FCC to court to challenge the *very rules* MMTC had endorsed.

While many public interest advocacy groups opposed the FCC's network neutrality rules, after two years of study, MMTC concluded that some of the proposed regulations would tend, in practice, to impose market entry barriers on minority digital entrepreneurs – a concern echoed to us by these entrepreneurs. Having struggled for a generation to lift such barriers in broadcasting and cable, MMTC did not want to see such barriers also erected in the telecom field.

MMTC agreed that there was a need for some regulation to protect minority consumers, particularly in these areas:

- First, there was a need for carriers to have full transparency on such subjects as rates, terms, and conditions.

- Second, there was a need for a user community, especially including young people just learning how to be online, that has a high degree of media, telecom, and Internet literacy.

- Third, the blocking of content is egregious, and it would be imprudent to rely only on consumers' organized efforts to stop it. Instead, there was a need for strong regulation. That is why in 2011, MMTC signed on, with Public Knowledge, Free Press, and others, to the joint complaint against the Bay Area Rapid Transit (BART) System's cellphone blocking.

However, MMTC was not as concerned with net neutrality violations as some of the public interest advocacy groups because, over the past decade, there have been few net neutrality violations, and those that have materialized have been quickly exposed and put to rest by the "shaming culture" of the Internet.

Today, MMTC, joined by 46 other national minority organizations and echoed in comments submitted by the Communications Workers of America, supports regulation of the Internet under Section 706 of the Telecommunications Act. That is also FCC Chairman Tom Wheeler's position. Notably, most of the large edge companies, including Google, no longer oppose this position. In this recent iteration of our position, MMTC asserts even stronger consumer protections by urging the FCC implement an expedited, affordable complaint process modeled after Title VII (EEO) of the 1964 Civil Rights Act.

The differences between the national civil rights organizations and some public interest advocacy groups in today's net neutrality debate also include the issue of regulatory priorities. MMTC feels that the FCC's regulatory enforcement priorities should focus on protecting the underserved and those subjected to discrimination – i.e., the FCC should devote much more of its limited resources to stronger enforcement of the EEO and advertising nondiscrimination rules, the cable procurement rule, and to redlining. Unlike many net neutrality concerns, consumers using direct action can almost never remedy these social issues. With only so much money and staff available to enforce regulations, and with minorities in urgent need of regulatory protection, MMTC believes that the FCC must prioritize and focus its work on issues that have the greatest impact on minorities and the underserved.

- **AT&T/T-Mobile Merger**

CPI reported that "MMTC also supported a failed attempt by AT&T to buy T-Mobile in 2011 for $39 billion, the group's first endorsement of a media and telecom merger in its 25-year [sic] history." CPI also reported that "[g]roups such as the National Hispanic Media Center and the Center for Media Justice" opposed the merger, that AT&T and T-Mobile were sponsors of MMTC fundraising events, and that "[a] number of other civil rights groups such as the NAACP and Gay and Lesbian Alliance Against Defamation also backed the proposed merger and also received AT&T funding." CPI stated that MMTC defended its stance on the merger by "citing AT&T's record of hiring minority staff and suppliers."

Once again, CPI omitted the critical facts: nearly all of the national minority organizations that participate in FCC proceedings endorsed the AT&T/T-Mobile merger. These organizations included the National Urban League, League of United Latin American Citizens, many state attorneys general, and dozens of Members of Congress of both parties, and organized labor. They endorsed the merger largely because of the belief that it would expand access to broadband, create good jobs, and because of AT&T's exemplary record on diversity, from which minorities already benefit.

MMTC fully explained our rationale for supporting this merger, but CPI chose to omit this information from its story. The reasons MMTC endorsed the merger after extensive due diligence are quite compelling:

- MMTC ally CWA (Communications Workers of America) provided an economic analysis, embraced by the National Urban League, NAACP, LULAC, and others, which predicted that the merger would create tens of thousands of jobs –

especially well-paying union jobs – and that a high proportion of these jobs would likely go to minorities.

- It appeared probable that the combination of the two companies' similarly situated spectrum would facilitate the national high-speed broadband network that the President, in his 2010 State of the Union Address, had made a priority for development by 2015. MMTC endorsed the President's goal as vital to closing the racial digital divide. The minority community embraced wireless broadband more eagerly than in the majority community, as wireless is the first communications technology for which people of color are the lead adopters.

- AT&T has an outstanding record on diversity. In 2012, it was #4 in the *DiversityInc* rankings of Fortune 500 companies, and its workforce diversity and supplier diversity are exemplary. T-Mobile's diversity record was lacking, so its acquisition by AT&T held promise for minority advancement.

MMTC is neither a merger advocate nor apologist. In its 28 years, MMTC has endorsed exactly <u>two</u> mergers. And MMTC's President, David Honig, holds the record for the largest number of mergers and acquisitions <u>challenged</u> by a telecommunications attorney.

MMTC Believes that Policy Analysis Must Change to Keep Up with the Changing Demographics and the Marketplace

Unlike some of the other advocacy groups, MMTC has been willing to modify its views to keep pace with changing demographics, technology, and market conditions. A prime example is newspaper-broadcast cross-ownership – one of six major media ownership issues before the FCC. On five of those issues, which address the number of TV or radio stations that an entity can own or operate in the same market, MMTC has always aligned with the other public interest advocacy organizations. MMTC continued to do so over the years because the market conditions affecting those rules had not significantly changed.

However, the evolving new media ecosystem greatly impacted newspapers and led us to posit that policy analysts could no longer ignore newspaper-broadcast cross-ownership: online advertising forced massive cutbacks in local newspapers' investigative journalism and the employment of reporters covering elections and education boards. Online advertising even led to the death of some local newspapers.

Those steeped in the civil rights movement have long recognized that local newspaper reporting is vital to the well-being of the minority community. Thus, MMTC crafted a position urging the FCC to consider whether it could help save and strengthen investigative journalism by enabling local TV and radio companies to invest in local newspapers. Consequently, MMTC, like former FCC chairs Julius Genachowski and Reed Hundt, was open to some relaxation of the cross-ownership rule – but with the caveat that such relaxation must not diminish minority ownership. Nearly all of the national minority organizations agreed with this approach at that time.

As it happens, over the past year media companies have begun separating their newspaper and broadcast units, thus demonstrating that cross-ownership is no longer a workable business model for these industries. As a result, MMTC has abandoned the issue.

The public interest advocacy groups cited in the CPI story disagreed with MMTC's initial position on cross-ownership and a few other issues, but neither they nor CPI could discredit MMTC by arguing the merits. That is why CPI had to "go to the gutter" by indulging the elitist, paternalistic assumption that seeks to publicly excoriate minority civil rights organizations that dare break ranks with primarily non-minority advocacy groups on key public policy issues. CPI assumed that the non-minority advocacy groups' position must be presumed to be the correct position minority organizations should take and, therefore, there must be a sinister reason for anyone to take a different view.

CPI's Pre-Determined Storyline and Bias

The story, written by New Hampshire-based CPI stringer Jason McLure, ignored or distorted almost every fact that MMTC provided to him. Eleven specific examples are set out in the Appendix to this document.

The questions CPI's reporter posed to MMTC and others clearly revealed that he had a foregone conclusion about MMTC's corporate donors. The reporter made no apparent effort to interview necessary parties such as former FCC commissioners, other media brokers, minority broadcasters and digital entrepreneurs, or leaders of any of the dozens of civil rights organizations MMTC represents before the FCC. Rather, he relied entirely on advocacy groups whose missions and policy positions are different from MMTC's, and quoted only those whose statements agreed with his predetermined story line. He failed to include a single quote from a civil rights leader, economist, or scholar to speak to the shifting demographic, technological, or market conditions, and how those changing conditions militate against rigidity in policy analysis.[1]

MMTC's President, several donors, and one of MMTC's directors who often disagrees with MMTC's advocacy, confirmed to CPI that MMTC does not make decisions in order to secure donations. CPI did not include those statements because they did not support CPI's predetermined message.

CPI also did not disclose in its article that many of its own leading donors, and donors to the advocacy groups quoted in its article, are corporations or foundations whose advocacy MMTC has often opposed.

The Real MMTC Story: Who We Are And How We Do What We Do

MMTC is a 28-year-old national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media, telecommunications, and broadband industries. MMTC is the leading advocate for minority participation in the communications industries. We seek to preserve and expand minority ownership and

[1] The reporting was so sloppy that the titles of two MMTC officers were given incorrectly. David Honig is President, not Executive Director, of MMTC; and Hon. Julia Johnson is Chair, not President.

equal employment opportunity in these industries, and close the digital divide.

Our 17-member Board of Directors represents an extraordinarily diverse range of interests. It is nonpartisan, philosophically diverse, and majority-minority. Its members include two former FCC commissioners, two former chairs of state public utility commissions, a former FCC bureau chief, a former wireless advisor to the FCC Chairman, the General Counsels of both the NAACP and the National Urban League, the Executive Director of the League of United Latin American Citizens (LULAC), the Dean *Emerita* of Howard University's School of Communications, and the founder of the United Church of Christ's Office of Communication. Our board has enormous credibility with decision makers within the communications industries regulated by the FCC.

MMTC's positions always fall well within the mainstream of progressive policy. Our positions generally align with the Administration, organized labor groups, and the vast majority of the civil rights community. In the great majority of cases, our positions also agree with the positions of mainstream public interest advocacy groups. MMTC, along with other civil rights organizations, has a place at the communications policy table because the primarily non-minority public interest advocacy groups have no special expertise or interest in issues unique to minorities, such as advertising discrimination, access to capital, redlining of broadband service, and systemic discrimination unique to minority consumers and business owners.

MMTC evaluates every position, after thorough due diligence, as to whether and how it supports MMTC's mission. Some may disagree with our mission. Some may disagree with our policy positions. But no one can fairly dispute that our policy positions have been developed and advanced to support our core mission of promoting diversity and inclusion in the media and telecom industries and closing the digital divide.

In our 28 years, MMTC has invested tireless effort to open the nation's most influential and important industries to minority participation, with an emphasis on minority ownership of FCC regulated industries.

Here are some of our key accomplishments:

- *1986-present*: Infused diversity, and civil rights principles, into every element of media and telecommunications law. Virtually invented the practice of modern civil rights law before the Federal Communications Commission.
- *1986-present*: Operated the nation's only program aimed at training minorities and women in the practice of communications law. MMTC has trained 52 minority and women lawyers in FCC practice.
- *1989-2000:* Rescued the FCC's minority ownership policies through a 1989 Supreme Court case (*Metro Broadcasting v. FCC*) and *Adarand* studies in 2000.
- *1997-present*: MMTC's media and telecom brokerage participated in nearly $2B in transactions – amounting to one-third of all of the sales of broadcast assets to minority broadcasters and including the largest minority spectrum deal in history (2012) and the largest single station radio deal of any kind in history (2000).
- *2002*: Won the restoration of the broadcast and cable equal employment opportunity rule, which, with MMTC's help after our founding in 1986, led to an

increase in minority employment in broadcasting from 5% to 19% between 1971 and 1998.

- *2007*: After 24 years of advocacy, secured unanimous FCC approval of the rule against racial discrimination in the placement of advertising – thus saving minority broadcasters $200M/year that they earned but could never collect.
- *2011:* Helped secure the 2011 reversal of the onerous 2006 wireless auction "designated entity" restrictions that were preventing minorities from acquiring wireless spectrum.
- *2012:* Helped preserve the Lifeline Universal Service Fund service without a cap.
- *2013*: After nine years of litigation, secured the relaxation of the broadcast foreign ownership rule, thus opening up to minority broadcasters a vast new source of investment capital.

To help evaluate issues, MMTC convenes approximately eight policy committee meetings per year that typically attract 60 to 100 people from the public, private, and nonprofit sectors and covers all aspects of the communications industry. Policy committee presenters offer all sides of issues so that MMTC can better understand a variety of points of view to inform our policy positions.

MMTC's Funding: Sources And Controls

MMTC derives its income from a combination of revenues, including brokerage operations, broadcast station ownership, operation and training, and our annual ***Broadband and Social Justice Summit*** and ***Access to Capital and Telecom Policy Conference*,** which we hold every January and July, respectively.

On the issue of cross-ownership (before MMTC abandoned the issue), MMTC actually received more funds from competitors of newspaper/broadcast cross-ownership (2.7% of our 2012 income) than from cross-owners and cross-ownership supporters (1.4% of our 2012 income).

MMTC is a small and well-managed nonprofit that has more than adequate financial controls and conflict of interest policies in place, including:

- MMTC's 17-member board of directors has a policy that prevents us from accepting contributions from any single donor that amount to more than 15% of our budget; this keeps us from being crippled if a single donor withdraws financial support.

- To avoid over-reliance on just a few donors, MMTC seeks to draw upon a broad base of contributors. In 2012, we received donations of $1,000 or more from 49 donors, and donations of $10,000 or more from 17 donors.

- MMTC never accepts a donation that comes with a policy advocacy string attached. And our media and telecom brokerage will not accept an engagement tied to policy positions.

- MMTC directors must disclose their interests in telecom policy issues. They have consistently recused themselves to avoid even the appearance of any conflicts of interest.

- MMTC observes strict rules of financial accounting. We are audited annually.

- In 1994, MMTC's Board of Directors adopted a resolution about contributions MMTC will not accept: discriminators, gun interests, gambling, liquor, beer, wine, and tobacco. On three occasions, MMTC has refused or returned contributions from those noncompliant with this policy.

- MMTC's online magazine, www.broadbandandsocialjustice.org, does not accept advertising or sponsored posts. MMTC funds the website from its general treasury.

Over the course of our history, five of MMTC's six largest cash contributions were given by minority-owned businesses.

MMTC has taken – and continues to take – many positions that are in stark opposition to the interests of corporations that have supported us, nonetheless. We take positions that are demonstrably justified by any in-depth analysis of the facts. Unlike many others, we base our support on the unchallenged accomplishments and advances we have made for minority interests in the technology and communications industries, which are well-established in the public record.

Why The Telecom Policy Space Needs MMTC's Participation

MMTC exists to fulfill an important void in communications policy advocacy: to advance minority ownership, minority supplier diversity, advertising nondiscrimination, and other key policies that affect minority individuals and businesses.

The three policy issues addressed in CPI's story represent a small fraction of MMTC's work. Rather, the overwhelming amount of MMTC's day-to-day policy work focuses on advancing proposals to promote minority ownership and equal employment opportunity. Notably, although 57 national organizations endorsed some or all of MMTC's 71 minority and EEO proposals before the FCC, most of the MMTC critics quoted in the article have never supported MMTC's core work. Nor would they be expected to do so, since minority economic empowerment is not their primary mission.

We are proud that MMTC has earned the reputation for working with a wide variety of stakeholders on communications policy issues on both sides of the debates, and that we listen and do our homework to offer viable, market-based solutions that help ensure minority consumers and entrepreneurs have a seat at the table when communications policies are made.

MMTC's voice is one that must not be silenced by others who believe that our view on issues of communications policy is the correct view, and that those who have a different viewpoint must be attacked, demeaned, and accused of being unethical.

Attachment A

Eleven False or Misleading Assertions in CPI's Report on MMTC[*]

As in all policymaking, MMTC understands that there will be instances where our interests don't align – whether with regulators, corporations, or public interest advocacy groups that have a different focus – but good policymaking gets to the *issues* rather than attacking the organizations that present opposing viewpoints. MMTC counts at least 11 specific assertions made throughout the CPI article that are false or misleading.[t] While MMTC cooperated fully and submitted very extensive and accurate responses to CPI's questions, CPI generally ignored responsive information and published only information that supported its pre-conceived bias.

1. Sources of Funds.

CPI claimed that the majority of MMTC's budget in 2011 came from "sponsorships, donations and fees from companies, lobbyists, lawyers and religious broadcasters with interests before the FCC, according to an IRS filing. CPI calculated that 85% of MMTC's contributions came from 'industry.'" CPI counted within that 85% figure the 17% of MMTC's 2011 revenue it attributes to "industry payments for minority ownership facilitation" and the 9% of MMTC's revenue it attributes to "[l]easing revenues from stations donated by Clear Channel and industry sources."

GROSSLY MISLEADING.

MMTC's brokerage income is compensation for the customary professional services provided by a media or telecom broker. MMTC Media and Telecom Brokers is one of the largest and most successful media or telecom brokerages in the United States and the only one that is minority-owned or nonprofit-owned. MMTC is proud that its brokerage has "facilitated" one-third of the sales of broadcast stations to minorities since 1997. MMTC's brokerage represents buyers and sellers of all races, and it derives its income from minority clients and non-minority clients. Most of its buyer's-side clients are minority new entrants whom it trains and helps get into the business. And over 99% of the asset value of properties sold by MMTC's brokerage has been sold to minority and women buyers. Most of the stations MMTC sells had been owned by large group broadcasters; thus, MMTC's brokerage helps reduce industry consolidation and promote diversity.

To encourage new and diverse entry, MMTC's brokerage helps its buyer's-side clients network, provides access to industry resources, provides research and information, helps craft business plans, and helps clients understand FCC regulation and filings. In this way, the brokerage helps new entrants find their way into complex industries that often impose significant market entry barriers. Because MMTC is a nonprofit, the brokerage can provide this much-needed service even where the odds of a client closing a transaction are fairly low. For-profit brokerages are generally limited in how much of this kind of uncompensated service they can perform.

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[*] http://www.publicintegrity.org/2013/06/06/12769/civil-rights-groups-fcc-positions-reflect-industry-funding-critics-say

[t] The article also contained numerous small errors indicating a general lack of care. Among other things, it identified MMTC President David Honig as "executive director" and MMTC Chair Hon. Julia L. Johnson as "president of the board."

Minority and women entrepreneurs who leased the stations from MMTC were required to use the stations to help train minorities and women in broadcasting. These entrepreneurs also paid a portion of their broadcast station operating revenues to MMTC. In 2011, most of these revenues were derived from the minority-owned company that leased WLCC (AM) Tampa, which had been donated to MMTC in 2008 by Adam Lindemann. Mr. Lindemann, a writer and authority on modern art, did not take positions on industry issues apart from equal employment opportunity, which he enthusiastically supported.

MMTC receives support from a very broad base of donors, including opponents of its policy recommendations. MMTC actually receives more funds from competitors of newspaper/broadcast cross-ownership than from cross-owners and cross-ownership supporters. Here are the percentages of MMTC's 2012 budget derived from contributions of the companies and trade associations in each industry sector (the remainder is made up of broadcast station and brokerage income, foundation grants, memberships, Combined Federal Campaign (CFC), and miscellaneous income):

Broadcast cross-owners	1.4%
Broadcast competitors of cross-owners (none of whom aspire to become a cross-owner)	2.7%
Entities representing both cross-owners and broadcast competitors of cross-owners	0.6%
Cable	8.2%
Programmers	1.4%
Facilities-based national carriers	10.3%
Competitive and rural carriers and satellites	2.2%
Entities representing both facilities-based and competitive and rural carriers	1.4%
TOTAL	**28.2%**

Our support base is quite broad. In 2012, we received donations of $1,000 or more from 49 donors, and donations of $10,000 or more from 17 donors. Five of MMTC's six largest donations (including its largest donation) have been from minority-owned businesses.

2. Conference Income.

CPI attributes 35% of MMTC's revenue to "industry sponsored luncheons and conferences."

HALF TRUTH.

Each year, MMTC holds two comprehensive, two-day educational conferences on access to capital, telecom policy, and broadband and social justice, featuring dozens of speakers expressing a wide spectrum of points of view. These conferences are the largest gatherings in the country that bring minority media and telecom entrepreneurs together with investors, lenders, regulators, and service providers.

Further, MMTC's conference sponsors also include dozens of minority nonprofit organizations. Among these sponsors have been the NAACP, the National Conference of Black Mayors, the League of United Latin American Citizens, and Asian Americans Advancing Justice (AAJC).

3. Cross-ownership.

This policy issue principally spurred CPI's allegations. The very first sentence of CPI's story says that Chairman Genachowski's proposal to relax the cross-ownership rules "received support from a curious source: the Minority Media and Telecommunications Council, once an ardent critic of industry consolidation."

FALSE.

- Rather than give Chairman Genachowski's proposal a full endorsement, MMTC and more than 50 other organizations took a carefully nuanced position to account for the dearth of quality investigative journalism plaguing the industry. Daily newspapers historically produce investigative journalism essential to the civil rights cause. These newspapers, many of which are dying, could be rescued by investments from television or radio companies. On the other hand, the organizations were concerned with the potential impact of relaxation on minority ownership. Therefore, the organizations took the positions that they did not oppose some relaxation of the cross-ownership rule if, as applied, it would not diminish minority ownership.

- MMTC is still very much an ardent critic of industry consolidation, as demonstrated by its opposing relaxation of every one of the media ownership rules except the cross-ownership rule: local radio caps and subcaps, TV duopolies, TV shared services agreements, and dual network ownership. MMTC believes that the relaxation of any of those rules would clearly diminish minority ownership. Virtually all of the public interest advocacy groups agree with MMTC about this. And virtually every media corporation that donates to MMTC disagrees with MMTC about this.

Like positions MMTC has taken on all issues, MMTC's mission guides its position on cross-ownership. Three years ago, MMTC began to reassess its historic position against relaxing the newspaper-television cross-ownership rule when it became clear that the marketplace had dramatically changed. For example, according to the ASNE, daily newspaper newsrooms employed 40,600 journalists in 2012. This is down from 56,200 in 2000 – a 28 percent drop.

MMTC does not stand alone in its view that the rule could be relaxed. As former FCC Chairman Reed Hundt declared in a June 6, 2013, address at UCLA:

> Anyone who believes that a ban on print and broadcast combinations promotes minority ownership need only look to the bidding wars that arise among non-minority companies when a media property becomes available.... If a profitable broadcaster wants to buy a newspaper in its city to expand the amount of attention it can obtain from an audience or just to have more impact on the way people think – the FCC should welcome this extra support for the trouble-plagued newspaper industry.

4. MMTC's Cross-Ownership Study.

CPI reported that MMTC had "historically opposed relaxing ownership restrictions, saying they protect minority interests. Yet last week, the group released a key study arguing the opposite position. So why the change of heart? Critics say MMTC's position may have something to do with its extensive industry funding," which CPI says comes "from broadcast giants who favor the rule change," including "CBS Corp., radio giant Clear Channel Communications Inc., Rupert Murdoch's News Corp. and the National Association of Broadcasters, an industry lobby group." CPI adds that "MMTC offered to commission [the study] in February, after voicing its support for Genachowski's [cross-ownership] proposal.... Critics argue that other studies have shown that more media concentration harms small broadcasters, and that most women- and minority-owned broadcasting companies control just a few stations each."

FALSE.

- As explained to CPI and stated above, only a small fraction of the support received by MMTC comes from cross-owners (and the NAB, which supports cross-ownership). CBS and Clear Channel are not newspaper/broadcast cross-owners, nor are they pursuing cross-ownership at the FCC; rather, they are <u>competitors</u> of crossowners. In 2012, all cross-owners combined contributed 1.4% of MMTC's budget, and all broadcast <u>competitors</u> to cross-owners – companies MMTC agrees with on <u>no</u> media ownership issues – contributed 2.7% of MMTC's budget.

- Dr. Mark Fratrik, BIA Kelsey's Chief Economist, conducted our study. His views on cross-ownership are unknown. The study was peer reviewed by three distinguished scholars who have each vigorously <u>opposed</u> cross-ownership. Using the well-established methodology of "unaided recall," the study found that both minority and non-minority broadcast managers seldom regard cross-ownership as a major competitive factor affecting their stations. As MMTC previously explained to CPI, while there have been other studies about cross-ownership, none of them specifically addresses the impact of cross-ownership on minority ownership. And as MMTC previously explained to CPI, <u>none of the companies CPI lists in its narrative contributed to the study, which was financed entirely out of MMTC's general treasury.</u>

Evidently, the FCC regarded the study as worthy of consideration. On June 7, 2013, the FCC put the study out for public comment over a period of two months (DA 13-1317 (June 7, 2013)).

5. <u>Net Neutrality</u>.

CPI claimed that MMTC "sided with the Internet service providers" on net neutrality, and that MMTC received six-figure "contributions and sponsorships from network neutrality foes including Verizon, Time Warner [sic – this must refer to a separate company, Time Warner Cable], and the National Cable and Telecommunications Association, according to MMTC tax filings and sponsorship lists." CPI singles out Verizon, pointing to $200,000 in contributions to MMTC over a span of four years, and noting that, "MMTC worked with Verizon on a $189 million sale of wireless spectrum licenses to minority-owned Grain Management this year — a deal announced in conjunction with a larger $1.9 billion license sale to AT&T."

MISLEADING.

After two years of study, MMTC concluded that some of the proposed regulations would tend, in practice, to impose market entry barriers on minority digital entrepreneurs – a concern echoed to us by some of these entrepreneurs. Having struggled for a generation to lift such barriers in broadcasting and cable, MMTC certainly did not want to see such barriers also erected in the telecom field. Our conclusion was based on our analysis of the impact of the regulations on our constituents, and without regard to charitable contributions.

MMTC agreed, however, that there was a need for some regulation to protect minority consumers:

- First, there was a need for carriers to have full transparency on such subjects as rates, terms, and conditions.

- Second, there was a need for a user community, especially including young people just learning how to be online, that has a high degree of media, telecom, and Internet literacy.

- Third, the blocking of content is egregious, and it would be imprudent to rely only on consumers' organized efforts to stop it. Instead, there was a need for strong regulation. That is why in 2011, MMTC signed on, with Public Knowledge, Free Press, and others, to the joint complaint against the Bay Area Rapid Transit (BART) System's cellphone blocking.

MMTC believed, further, that the FCC's regulatory enforcement priorities should focus on protecting the underserved and those subjected to discrimination – i.e., the FCC should devote much more of its limited resources to stronger enforcement of the EEO and advertising nondiscrimination rules, the cable procurement rule, and to redlining. Unlike many net neutrality concerns, consumers through direct action can rarely remedy these social issues. Over the past decade, there have been few net neutrality violations, and those that have materialized have been quickly exposed and put to rest by informed online activists.

When the FCC adopted its net neutrality rules, MMTC endorsed them. Some think those rules are too weak. Some think they are too strong. But no one can say that the FCC's rules, and MMTC's endorsement of them, do not fall well within the mainstream. Indeed, most of the major national civil rights organizations came out where MMTC did. And some of the public interest advocacy organizations, like Public Knowledge, were generally comfortable with the FCC's decision. Verizon – cited by CPI as providing financial support to MMTC ostensibly for this issue – took the FCC to court to challenge the rules MMTC has endorsed.[tt]

6. **AT&T/T-Mobile Merger**.

CPI reported that "MMTC also supported a failed attempt by AT&T to buy T-Mobile in 2011 for $39 billion, the group's first endorsement of a media and telecom merger in its 25-year history. CPI stated that "[g]roups such as" the National Hispanic Media Center (NHMC) and the Center for Media Justice (CMJ) opposed the merger, that AT&T and T-Mobile were sponsors of MMTC fundraising events, and that "[a] number of other civil rights groups such as the NAACP and Gay and Lesbian Alliance Against Defamation also backed the proposed merger and also received AT&T funding." AT&T, CPI claimed, "relayed [CPI's] questions about the relationship to Honig, who defends MMTC's stance in the merger, citing AT&T's record of hiring minority staff and suppliers."

[tt] Contrary to CPI's reporting, MMTC's brokerage was engaged to assist with the transaction not by Verizon but by the National Urban League. The Grain transaction is the largest minority wireless deal in history and, as such, should have been applauded. The Grain transaction is independent of AT&T's transaction.

GROSSLY INCOMPLETE.

A critical fact that CPI managed to omit is that nearly all of the national minority organizations who participate in FCC proceedings endorsed the merger. NHMC and CMJ were the only two of any size that opposed the merger. Further, as MMTC told CPI, the reasons MMTC endorsed the merger after extensive due diligence were quite compelling:

- The combination of the two companies' similarly situated spectrum presented a strong likelihood of facilitating a national high-speed broadband network such as the one prioritized by President Obama in his 2010 State of the Union Address. MMTC endorsed the President's goal as vital to closing the racial digital divide since wireless is the first communications technology for which people of color are the lead adopters.

- The economic analysis by MMTC's ally CWA (Communications Workers of America), which was embraced by the National Urban League, NAACP, LULAC, the National Action Network, and others, found that the effect of the merger would create tens of thousands of jobs and, especially, well paying union jobs, and that a very high proportion of these jobs would likely go to minorities;

- AT&T's workforce and supplier diversity are exemplary (in 2012, the company was #4 in the *DiversityInc* rankings of Fortune 500 companies). T-Mobile's diversity record needed work, so its acquisition by AT&T held promise for minority advancement.

7. <u>Comcast-NBCU Merger</u>.

CPI reported that Comcast is a major MMTC donor and that NBC Universal contributed to MMTC in 2010 "and retained MMTC's brokerage arm to help it sell a Los Angeles TV station as required under terms of the deal.... In addition to taking Comcast's side on Net Neutrality, Honig publicly hailed its 2011 buyout of NBC Universal."

MISLEADING.

MMTC did not take a position on whether the FCC should approve the Comcast-NBC merger. David Honig released comments <u>after the merger closed</u> and after eleven leading national civil rights organizations negotiated Memoranda of Understanding (MOUs) that included Comcast/NBCU's commitment to fund and distribute ten independent minority-owned and -operated digital television programming services to help to improve diversity in programming choices on cable television.

MMTC did have an ancillary role during the merger: NBC engaged MMTC Media and Telecom Brokers to help broker the sale of Los Angeles Channel 23, which was part of the nation's only TV "triopoly" (three TV stations in the same market). Public interest advocacy and civil rights organizations have long opposed triopolies.

MMTC Media and Telecom Brokers was the best qualified brokerage for NBC to engage because: (1) it knew the Los Angeles market very well, having earlier brokered in that market the highest priced radio station sale in the nation's history; (2) it had brokered the sale of two NBC-controlled television stations; and (3) NBC wanted to reach out to minorities as part of its effort to sell Channel 23, and MMTC's brokerage has unmatched experience with the minority broadcasting marketplace.

Because of market entry barriers and access to capital issues particularly, brokerage work that is focused on facilitating sales to minorities can be quite difficult. Consistent with our core mission, MMTC's brokerage worked very hard to broker the Channel 23 transaction, and a Hispanic-owned company acquired the station.

8. Creation of MMTC Media and Telecom Brokers.

CPI reported that "[i]n 1998, MMTC began collecting fees from broadcasters in return for helping them sell stations to minority buyers — earning $450,000 that year alone by helping Clear Channel sell a Boston station for $5 million, according to a report in the trade newspaper Broadcasting & Cable." CPI claimed that this (undated) story in Broadcasting & Cable "said that rival brokers were complaining that one MMTC client, CBS Corp., did not typically use brokers and had retained Honig 'only to curry favor with the diversity-minded FCC.'"

GROSSLY INCOMPLETE AND MISLEADING.

In 1997, MMTC founded the nation's first minority owned media brokerage, and against all odds, the brokerage was a success that enabled MMTC to hire a small staff.

In 1998, one or two brokers criticized CBS for taking the unusual step of hiring a minority-owned brokerage at a time when there had never been a minority-owned brokerage. However, nearly all of the nation's 60 media brokerages welcomed diversity among their ranks. Thus, in 2000, the National Association of Media Brokers (NAMB) unanimously inducted MMTC Media Brokers into its membership. Virtually all media brokers belong to the NAMB.

9. Executive Compensation.

CPI reported that in 1998, MMTC paid David Honig a $41,125 salary, which increased to $212,072 by 2010, when "his addresses included a waterfront home on Maryland's Eastern Shore assessed at $856,700, according to Maryland property records."

DISHONEST.

CPI implied that income MMTC received from industry sponsors around 2010 enabled MMTC's President to buy an expensive home. However, he did not use the income he earned from MMTC to purchase this house, in Queenstown, MD, which was his family's residence for nine years. As CPI well knew from the property records it reviewed, David Honig purchased the house in **2000**. He financed the purchase not from his MMTC salary as implied by CPI, but with funds he had earned and saved from the law practice he founded in 1983.

When David Honig joined MMTC's staff in 1998, he took an 85% pay cut from his former job as a telecommunications lawyer in private practice – a fact CPI also knew but chose not to report. Today he earns a small fraction of what comparably skilled telecom attorneys earn in private practice. Honig resides in Florida where he serves *pro bono* as chief counsel for the Florida NAACP. In Florida, he specializes in voting rights and police misconduct issues and supervises 21 other volunteer NAACP attorneys that he recruited. The NAACP's Florida legal program seeks to prevent another Trayvon Martin tragedy and another Bush v. Gore.

10. <u>Brokerage Team</u>.

CPI reported that MMTC's "brokerage team includes [two] former Clear Channel staffers."

MISLEADING.

Diane Warren, whose career included a stint as Senior Vice President of Communications for Clear Channel as well as several years as an executive for minority-owned broadcasters, led the brokerage at the time of the article's publication. It is hardly surprising or troubling that a media brokerage would hire someone with hands-on industry expertise. MMTC did not hire Ms. Warren from Clear Channel, but from Bounceology, a company Ms. Warren founded and operates. MMTC engaged Bounceology to operate MMTC's brokerage and radio stations.

Today, MMTC's brokerage team is led by Suzanne Gougherty, the former General Manager of the UAW's progressive i.e. America Radio Network. She is assisted by Judith Wing, a former Washington law firm paralegal.

11. <u>Endorsement of Tom Wheeler for FCC Chair</u>.

CPI stated that "President Obama's pick for the spot, Tom Wheeler, a former cable and wireless industry lobbyist, was endorsed by [MMTC] just hours after news of his selection was leaked to the media."

MISLEADING.

On April 23, 2013 – a week prior to the May 1 announcement of Tom Wheeler's selection – MMTC and 50 national organizations urged the President to nominate FCC candidates who would "prioritize diversity and inclusion." The letter did not identify or recommend particular candidates. On April 30, the day the Wheeler announcement was widely reported, MMTC promptly issued a statement applauding Wheeler's selection. Most other major telecom organizations issued similar statements on that same day.

CPI's innuendo regarding Wheeler's employment history was misleading. Several progressive icons, including Susan Crawford, Andy Schwartzman, and Larry Irving, endorsed Wheeler. They released their joint endorsement letter on April 11 – three weeks <u>before</u> word of Wheeler's nomination was made public.