

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of	)	
	)	
2010 Quadrennial Review – Review of the	)	MB Docket No. 09-182
Commission’s Broadcast Ownership Rules and	)	
Other Rules Adopted Pursuant to Section 202	)	
of the Telecommunications Act of 1996	)	
	)	
Promoting Diversification of Ownership	)	MB Docket No. 07-294
In the Broadcasting Services	)	

COMMENTS OF FREE PRESS

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SUMMARY AND INTRODUCTION

Free Press respectfully submits these comments in response to the Federal Communications Commission's recently released report on the ownership of commercial broadcast stations (*Form 323 Summary Report*). As that report shows, and as the Commission acknowledged when it sought further comment, women and people of color hold broadcast licenses "in disproportionately small numbers."¹ The record in this proceeding and in prior ownership reviews demonstrates conclusively that increased media consolidation and concentration work to keep those numbers low – harming rather than helping diversity of ownership, diversity of viewpoint, and the other public interest goals that the Commission's policies purport to serve.

We appreciate the opportunity to comment on the report, though the truncated comment cycle coming *after* the Chairman's office circulated a draft Order leads us to believe this is an exercise in optics, not a serious attempt to give consideration to this critical issue.² The Commission, which afforded the public an additional comment period only after interested parties stressed the need for further analysis, characterized itself as "going the extra mile for transparency" as it concluded the 2010 Quadrennial Review.³ However, the Commission has hardly gone the extra mile. It has merely taken the first stride in addressing the Third Circuit Court of Appeals' mandate to carefully and thoughtfully assess the impact of its media ownership rules on the level of broadcast ownership among women and people of color *before* making changes to those rules.

¹ *Commission Seeks Comment on Broadcast Ownership Report*, MB Docket Nos. 09-182, 07-294, Public Notice, DA 12-1946 (rel. Dec. 3, 2012) (*Notice*).

² See Jonathan Make, "Draft FCC Order Would Attribute JSAs, End Radio/Paper and Radio/TV Cross-Ownership Ban," *Communications Daily*, Nov. 15, 2012.

³ See Bill Lake, "Media Ownership: Going the Extra Mile For Transparency," *Official FCC Blog*, Dec. 3, 2012.

Now, the onus is on the Commission to conduct a reasoned analysis of the *Form 323 Summary Report* and then act appropriately to promote broadcast ownership diversity among women and people of color. This means that the Commission must go beyond capturing a mere snapshot of the current state of female and minority ownership. It must also study how proposed rule changes would change that picture. This analysis would certainly show that, given the appallingly low levels of ownership among women and people of color and the strong historical evidence of the negative impact of prior ownership rule relaxation, the Commission could not justify further relaxation.

The confirms what even the Commission admits is a “picture whose outlines have been clear for some time.”⁴ The level of female and minority ownership in the broadcast marketplace is disproportionately and embarrassingly low. For instance, a proper analysis of the summary – accounting for corrections we make below to the Commission’s data – reveals that racial and ethnic minorities own 43, or 3.2 percent, of all U.S. full-power commercial broadcast stations.

And things are only getting worse in this service, with a nearly 20 percent decline in the level of minority ownership since 2006, and a net loss of six minority-owned stations since the Commission last collected data in October 2011. In a nation where African Americans comprise 13 percent of the population, there are only 5 African American-owned full-power commercial TV stations, just 0.4 percent of the total. This is a 76 percent decline in just 6 years. That the Commission would even consider allowing additional consolidation pressures without acknowledging and confronting this sorry state of affairs is troubling.

⁴ *Id.*

Taking the analysis a step further, as the Commission should have done, reveals the likely impact of further relaxing the cross-ownership rules in the manner reportedly contemplated by the Commission's draft item. Allowing increased media consolidation almost certainly would have an adverse effect on ownership levels among women and people of color. An examination of the 2011 Form 323 data alongside data from the Free Press ownership studies conducted in 2006 and 2007 suggests that relaxation of ownership rules, which would increase local market concentration and exacerbate the negative market effects that consolidation has on small station group owners, would in turn lead to a decline in ownership diversity.

The reality of consolidated markets is that small station owners, who are more likely to be women or people of color, are not able to compete with large conglomerates. Single station owners often lack the financial leverage to negotiate programming, maintain staff, and add assets to their portfolios. As a result, market consolidation crowds out existing owners and raises barriers to entry for other would-be minority small business owners. This notion is evidenced by what has happened in the media marketplace since 2006. In the last six years, 26 full-power TV stations owned by racial or ethnic minorities have been transferred to non-minority owners, with all but one changing hands after succumbing to financial distress.

The breadth of empirical data and practical experience strongly suggest that the Commission's proposed relaxation of the newspaper-television cross-ownership rule will be particularly harmful to ownership diversity. A full 46 percent of all the current minority-owned full-power TV stations are located in the largest 20 Designated Market Areas and are non-top four ranked stations, making them prime acquisition targets.

Though it is possible that some owners who will sell could re-enter the broadcast market, the evidence strongly suggests this is highly unlikely, especially given the increased barriers to entry that would result from Commission action to increase local market consolidation and the pending auction of TV broadcast stations to cellular companies.

We recognize that there are several factors that contribute to the problems faced by diverse broadcast owners, including but not limited to discrimination in access to capital, equity and deals. However, the Commission cannot ignore the reality that market consolidation is chief among these factors and even exacerbates the other barriers. Moreover, while the Commission may not be able to combat the discrimination minorities and women face in financing, it can address the damage that stems from market consolidation. Therefore, we reiterate that the Commission must conduct a proper analysis of the Form 323 data before moving forward with a final order that will further increase concentration and harm ownership diversity. Until this analysis is completed, there can be no justification for relaxing the rules and no argument for releasing an order that fails to comply with the Third Circuit's mandate on this point.

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I. The Commission's Report Confirms Continuing Disparities in Ownership, and Shows the Need for Further Analysis of Consolidation's Impact on Diversity

The level of female and minority ownership in the broadcast sector is abysmally low. This is a well established fact, first documented through NTIA's small sample studies released periodically during the 1990s,⁵ confirmed for the universe of stations in a series of Free Press studies released beginning in 2006,⁶ and now confirmed by the Commission itself in the recently released Form 323 Summary Report.⁷

⁵ From 1990 to 2000, the NTIA released several reports that estimated the total number of minority-owned radio and television stations. The agency has not conducted any further research into this matter since its last report was issued in December 2000, and has indicated that it does not intend to conduct any further research in this area. *See* Letter from NTIA to Ms. Veronica Villafane, President, National Association of Hispanic Journalists, April 27, 2006 ("Presently, NTIA has no plans to conduct a minority ownership study. You may find of interest, however, data on female and minority ownership from the Federal Communications Commission's ownership reports filed in calendar year 2003. The data are available on the Commission's website."). NTIA's work did not examine ownership by women. NTIA also did not conduct a census of owners, relying primarily instead on information reported to trade organizations.

⁶ During 2006 and 2007, Free Press produced the first comprehensive accounting of the race, ethnicity and gender of every full-power commercial broadcast radio and television owner in the United States. These studies were assembled through an analysis of individual FCC Form 323s, and include comparative statistical and econometric analysis on the structural factors that impact ownership diversity. The Commission's own summaries of Form 323 data issued prior to the Free Press studies were deeply flawed. For example, in its 2005 summary the Commission missed 69 percent of the minority-owned TV stations and a full 75 percent of the female-owned TV stations. *See* S. Derek Turner and Mark Cooper, *Out of the Picture: Minority & Female TV Station Ownership in the United States, Current Status, Comparative Statistical Analysis & the Effects of FCC Policy and Media Consolidation*, Free Press, October 2006 (*Out of the Picture*); S. Derek Turner, *Off The Dial: Female and Minority Radio Station Ownership in the United States, How FCC Policy and Media Consolidation Diminished Diversity on the Public Airwaves, Review of Current Status and Comparative Statistical Analysis*, Free Press, June 2007 (*Off The Dial*); S. Derek Turner and Mark Cooper, *Out of The Picture 2007: Minority & Female TV Station Ownership in the United States, Current Status, Comparative Statistical Analysis & the Effects of FCC Policy and Media Consolidation*, Free Press, October 2007 (*Out of the Picture 2007*) (collectively "Free Press ownership studies").

⁷ *See In the Matter of 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section*

This *Form 323 Summary Report* represents the first time that the Commission has issued an assessment of ownership diversity that is apparently largely accurate, despite collecting this information since 1999.⁸ Past Commission summaries of Form 323 data were plagued with inaccuracies, such as the 2005 summary that missed 69 percent of the minority-owned full-power TV stations.⁹ Thus it appears the Commission has moved from an apparent state of total apathy towards the plight of female and minority owners, to at least recognizing the need to collect and disseminate basic summary data that is reasonably accurate. In Part II below, we make corrections to the 2011 data for full-power television station licensees, based on a review of developments since 2011 and on corrections to mistakes in the Commission’s reporting of 323 data for some few stations.

Despite these minor flaws, the report is an important first step for the Commission towards fulfilling its obligation to promote ownership diversity.¹⁰ But possessing an accurate, thorough, and robust understanding of the true level of female and minority ownership and how that level has changed over time is indeed just a first step. The Commission must also have a deep understanding of how its policies – past and present –

202 of the *Telecommunications Act of 1996*, MB Docket Nos. 09-182, 07-294, Report on Ownership of Commercial Broadcast Stations, DA 12-1667 (rel. Nov. 14 2012) (*Form 323 Summary Report*).

⁸ See *In the Matter of 1998 Biennial Regulatory Review Streamlining of Mass Media Applications, Rules, and Processes Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket Nos. 98-43; 94-149, Report and Order, 13 FCC Rcd 23056 (1998).

⁹ *Out of the Picture 2007*, at 4.

¹⁰ See 47 U.S.C. § 257(b) (directing the Commission to “promote the policies and purposes of [this Act] favoring diversity of media voices” in carrying out its responsibilities under Section 257(a) of the Communications Act to eliminate market barriers for entrepreneurs and small businesses); see also *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 Nos. 09-182, 07-294, Notice of Proposed Rulemaking, 26 FCC Rcd 17489, ¶¶ 16-20 (2011).

impact ownership by women and people of color, and how changes to its policies are likely to impact ownership diversity going forward. This understanding of the impact of its policies is critical, because the Commission may have little ability to address the discrimination women and minorities face in the credit and equity markets, but can structure ownership regulations in a manner that lowers barriers to entry.

The Free Press ownership studies published in 2006 and 2007 and submitted in the record for the 2006 Quadrennial Review directly examined the impact of the Commission's structural ownership rules on the level of broadcast station ownership by women and people of color. The results of these studies, unchallenged in the record, are clear; and they comport with the real world observations of minority broadcast entrepreneurs.¹¹

In *Out of the Picture* and the follow-up study *Out of the Picture 2007*, Free Press found Commission policies adopted in the late 1990s that enabled greater local market consolidation had a significant impact on diversity of ownership, indirectly or directly contributing to the loss of 40 percent of the full-power television stations that were minority-owned as of 1998.¹² Most importantly, these studies of the broadcast TV market offered econometric evidence indicating that as markets become more concentrated, *ceteris paribus*, minority ownership declines.¹³ The results from the econometric analysis

¹¹ See Supplemental *Ex Parte* Comments of the Diversity and Competition Supporters in Response to the Second Further Notice of Proposed Rulemaking, *In the Matter of 2006 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. 06-121 (filed Nov. 20, 2007), at App. D (*DCS Nov. 2007 Ex Parte*).

¹² *Out of the Picture 2007*, at 26.

¹³ See *id.*, at App. B.

reaffirmed the lessons from theory, anecdote and history presented by numerous parties in the 2006 Quadrennial review:

The results from [Out of the Picture 2007] indicate that [a] policy agenda of relaxed ownership limits not only fails to promote minority ownership, but actually undermines it at three levels. First, the trend since rules were relaxed in the mid-1990s shows a decline in minority ownership, despite an increase in the number of overall stations. Second, examination of the stations that were sold since that change in policy shows that many sales of minority owned stations to non-minorities were made possible...directly by that change (there may have been indirect effects as well, since many of the sales that took place could have taken place prior to the change in policy, but did not). The pressures to consolidate unleashed by the relaxation of the previous limits may have pushed minority owners, who have little prospect of keeping up the trend, to sell. Third, econometric evidence supports the proposition at the macro level that this micro-level data would suggest – greater concentration is associated with lower levels of minority ownership.¹⁴

In *Off the Dial*, Free Press applied a similar methodology to the broadcast radio market. This econometric study found that the probability that a particular station will be female- or minority-owned is significantly lower in more concentrated markets, and the

To examine the relationship between minority-ownership of full-power commercial television stations and TV market concentration, several econometric models were constructed. The data consists of station and market level observations from 2006 and 2007. The first set of models examines the effect that the presence of a minority-owned station in a market has on market concentration. In order to control for market-specific effects, population size and percentage female and minority populations were used as control variables. [...] We also chose to treat minority ownership as a *dependent* variable, and examine the *probability* that a given station (or market) will be minority-owned (or contain a minority-owned station) given the characteristics of a market, including the market concentration. [...] These results suggest that the probability that a given station is minority-owned is significantly lower in more concentrated markets, even if market and station characteristics are held constant. This result is also seen when examining the probability that a market will have a minority-owned station. These findings suggest that the likely outcome of further industry consolidation and concentration will be fewer minority-owned stations and markets with minority owners.

¹⁴ *Id.*

probability that a particular market will contain a female- or minority-owned station is significantly lower in more concentrated markets, even after controlling for other relevant market factors.¹⁵ These results speak to the large impact that concentration has on market economics, as radio, with its comparatively lower barriers to entry and lower station prices, is considered an important entry point for new owners.

II. Diversity of Ownership Remains Disproportionately Low, as Consolidation Makes Diverse Owners' Positions Even More Precarious

As the Commission recognized in the *Notice*, the recent *Form 323 Summary Report* merely provides a “snapshot” of the number of stations owned by women in people of color at the time the biennial forms were filed in 2009 and 2011.¹⁶ This snapshot is an indispensable input into further analysis, but the mere issuance and cursory “consideration”¹⁷ of these summary statistics alone is not the analysis that the Third Circuit demanded when it told the Commission to “consider the *effect* of its rules on minority and female ownership.”¹⁸ By way of analogy, an environmental protection agency knowing that the town’s population has a high incidence of mercury poisoning is not the same thing as conducting an impact study to see if allowing the construction of a mercury battery plant next to the town’s river might have some relationship to the epidemic.

¹⁵ *Off the Dial*, at 7.

¹⁶ *See Notice* at 1.

¹⁷ *See id.* (“The recently released Ownership Report confirms that minority and female ownership numbers remain low and provides more detailed ownership figures. These data are part of the record and have been considered in our current quadrennial review and, along with additional data gathered in subsequent biennial filings, will be considered in our succeeding quadrennial reviews.”).

¹⁸ *Prometheus Radio Project v. FCC*, 652 F.3d 431, 471 (3d Cir. 2011) (*Prometheus II*) (emphasis added).

The *Form 323 Summary Report* is just that: a summary. It is not an impact study; it is not a consideration of the *effect* of the Commission's broadcast ownership rules on female and minority ownership. The comparative statistical analysis and econometric studies conducted by Free Press in 2006 and 2007 and described above are the kind of impact studies the Third Circuit asked the Commission to conduct, and our earlier studies confirmed the obvious: Commission rules that lead to more consolidated markets have the effect of increasing barriers to entry for small businesses, which are far more likely to be owned by women and people of color. This is the empirically observed outcome of previous rule changes that allowed TV duopolies and increased local ownership caps in television and radio; and it is the expected outcome of the cross-ownership rule relaxation that the Third Circuit remanded, but that the Commission reportedly is considering once again. Increasing market concentration crowds out existing minority owners and increases entry barriers, such that existing owners cannot re-enter the market and new minority owners cannot enter the market period.

A. Summary Analysis of the Recent Form 323 Data

Again, we appreciate the opportunity to comment on the recent *Form 323 Summary Report*; but because the comment window is so brief, we are unable to provide a full impact analysis similar to those offered in *Off the Dial* and *Out of the Picture*. The results from those studies nevertheless remain relevant and instructive to the current proceeding.

Below we provide an initial analysis of the recently released data on the full-power broadcast television stations owned by people of color.¹⁹ We begin by correcting errors in the Commission's data (*e.g.*, missing stations and stations improperly identified as minority-owned) and update the tallies to account for stations sold in 2011. We also use the recently released information to correct the ownership tallies in the 2006 and 2007 Free Press studies. We then examine the entry and exit of minority owners since 2006. This accounting is instructive for the purposes of understanding how the Commission's rules impact minority ownership.

Figure 1 presents the list of the 43 full-power U.S. television stations that are currently owned by people of color. This list differs from the Commission's summary of 69 such stations in several ways.

First, the Commission's tally includes stations licensed in the unincorporated territory of Puerto Rico. We exclude these stations from our tally in order to maintain comparability with our earlier studies, and because they are not located in a Nielsen Designated Market Area. Therefore we exclude 21 stations from our count of Hispanic-owned stations, and an additional 13 non-minority-owned stations from the total count of full-power commercial broadcast television stations.²⁰

¹⁹ In the *Form 323 Summary Report*, the Commission reported the number of racial minority owners and the number of Hispanic/Latino owners separately. In our prior studies and in these comments when we describe "minority" owners or "people of color," we are jointly describing racial and ethnic minority owners.

²⁰ There are 34 full-power commercial stations located in the unincorporated territories of Guam (1), The U.S. Virgin Islands (4) and Puerto Rico (29). Latinos own 21 of these 34 stations (all located in Puerto Rico).

Second, the Commission's summary includes four stations that have subsequently had their licenses cancelled.²¹ One of these stations was minority-owned prior to the license revocation.²²

Third, an additional six stations the Commission classified as owned by racial or ethnic minorities were sold to non-minority owners, either before the October 2011 filing date or shortly thereafter.²³

Fourth, the Commission reported WPFO (FCC ID 84088) as black-male majority-owned station. However, a review of the station's Form 323 indicates that the minority-controlled voting share for this station is actually 26 percent.²⁴

Fifth, the Commission erroneously listed two Hispanic-owned stations in its 2009 and 2011 summaries as having "No Majority Interest."²⁵

²¹ These are KOVT (FCC ID 53911), KOCT (FCC ID 53908), KOGB (FCC ID 85114), and KCFG (FCC ID 35104).

²² KCFG (FCC ID 35104), owned by KM Communications, went silent in September 2011. The Commission cancelled the license on November 6th, 2012. *See* BLSTA-20111005AAQ.

²³ KFFV (FCC ID 49264), previously owned by North Pacific International Television (male, American Indian/Alaskan Native-owned) was sold to an investor group headed by Michael Dell, in a deal consummated in June 2012. *See* BTCCDT-20120529ADX. KVAW (FCC ID 32621), previously owned by Zavaletta Broadcasting Group (male, Hispanic-owned) was sold to NRT Communications in May 2011. *See* BALCDT-20110118ACD. KTLM (FCC ID 62354), previously owned by Sunbelt Multimedia Company (male, Hispanic-owned) lost the station in bankruptcy. The license was transferred to Patrick Communications in September 2012. *See* BALCDT-20120910ABU. KXVA (FCC ID 62293) and KIDY (FCC ID 58560), previously owned by Bayou City Broadcasting (male, Black-owned) were sold to London Broadcasting in November 2012. *See* BALCDT-20120927ADA. And KTGF (FCC ID 13792), previously owned by Destiny Broadcasting (male, black-owned) was sold to RGW Investments in September 2010. *See* BALCDT-20090922ABP.

²⁴ Charles Glover controls 51 percent of PowerTV, which in turn controls 51 percent of the votes of the station. Non-minority owners hold Seventy-four percent of the voting shares. *See* BOS-20061130ASD.

²⁵ KFWD (FCC ID 29015), owned by HIC Broadcasting, is majority-Hispanic controlled. *See* BOA-20111006ADE, later superseded by BTCCDT-20121115AGK.

Sixth, KWHY-TV (FCC ID 26231), the Los Angeles station formerly held by NBC in an illegal triopoly, was sold to the Hispanic-owned Mureulo Group in August 2011.²⁶

Finally, in the *Form 323 Summary Report* the Commission reported information for 1,386 full-power commercial stations, 38 of which filed inadequate information on the race, ethnicity and gender status of the owners.²⁷ However, we were able to determine the ownership status of all 38 of these stations by manually inspecting Commission records.²⁸ Thus, incorporating these 38 stations back into the universe considered by the Commission (1,348 stations), excluding the 34 stations in unincorporated U.S. territories, and excluding the four stations we identified with canceled licenses, results in a universe of 1,348 stations.²⁹

With these changes accounted for, we find that racial or ethnic minorities currently own 43, or 3.2 percent of all the U.S. full-power commercial broadcast television stations (see Figure 1).

KXLA (FCC ID 55083), owned by Ronald Ulloa, is majority-Hispanic controlled. *See* BOA-20111201LAR.

²⁶ *See* BTCCDT-20110727ACU.

²⁷ *See Form 323 Summary Report*, at note 8.

²⁸ Two of these stations are white-female owned, 21 are male-white owned, and the remaining 15 have “No Majority Interest” status.

²⁹ This manual inspection process took one person less than an hour to complete. It is troubling that the Commission staff could not do this work when confronted with these incomplete forms.

Figure 1: U.S. Full-Power Commercial TV Stations Owned by People of Color

FCC ID	Calls	Owner	Race	Gender	DMA Rank	DMA	Affiliation	Top-20 DMA & Non-Top-4 Ranked?
43952	WMBC-TV	Mountain Broadcasting Corporation	A	M	1	New York, NY	IND	YES
56384	KBEH	Hero Broadcasting, LLC	H	M	2	Los Angeles, CA	tr3	YES
16729	KVMD	KVMD TV	H	M	2	Los Angeles, CA	IND	YES
55083	KXLA	KXLA TV 44 Inc	H	M	2	Los Angeles, CA	IND	YES
14000	KJLA	LATV LLC	H	M	2	Los Angeles, CA	IND	YES
22161	KRCA	Liberian Broadcasting, Inc.	H	M	2	Los Angeles, CA	Estrella TV	YES
63865	KILM	Multicultural Broadcasting	A	M	2	Los Angeles, CA	IND	YES
26231	KWHY-TV	The Murelo Group	H	M	2	Los Angeles, CA	MundoFOX	YES
32334	WJYS	Jovon Broadcasting Corporation	TWO	M	3	Chicago, IL	REL	YES
61111	WMGM-TV	Access.1 Communications	B	M	4	Philadelphia, PA	NBC	YES
23142	WWSI	ZGS Communications	H	M	4	Philadelphia, PA	Telemundo	YES
29015	KFWD	HIC Broadcast Inc	H	NCI	5	Dallas-Ft. Worth, TX	MundoFOX	YES
73701	KMPX	Liberian Broadcasting, Inc.	H	M	5	Dallas-Ft. Worth, TX	Estrella TV	YES
8378	KQSL	Jeff Chang	A	M	6	San Francisco-Oakland-San Jose, CA	RTV	YES
69531	KZJL	Liberian Broadcasting, Inc.	H	M	10	Houston, TX	Estrella TV	YES
24753	KMOH-TV	Hero Broadcasting, LLC	H	M	13	Phoenix, AZ	MundoFOX	YES
27387	WGEN-TV	Caracol Televisión	H	M	16	Miami-Ft. Lauderdale, FL	Spanish	YES
72053	WSBS-TV	Spanish Broadcasting System, Inc.	H	M	16	Miami-Ft. Lauderdale, FL	Mega TV	YES
37101	KETD	Liberian Broadcasting, Inc.	H	M	17	Denver, CO	Estrella TV	YES
43870	WRLM	TCT Ministries, Inc	AI	F	18	Cleveland-Akron, OH	REL	YES
57221	WRBU	Roberts Broadcasting Company	B	M	21	St. Louis, MO	MyNet	NO
10133	WRAY-TV	TCT Ministries, Inc	AI	F	24	Raleigh-Durham, NC	IND	NO
77512	KPNZ	Liberian Broadcasting, Inc.	H	M	33	Salt Lake City, UT	Estrella TV	NO
67781	WTLJ	Tri-State Christian Television	AI	F	39	Grand Rapids-Kalamazoo-Battle Creek, MI	REL	NO
25382	KWTV-DT	Griffin Communication	AI	M	41	Oklahoma City, OK	CBS	NO
54452	WLXI	TCT Ministries, Inc	AI	F	46	Greensboro-High Point-Winston Salem, NC	REL	NO
60793	KCHF	Son Broadcasting Inc	H	F	47	Albuquerque-Santa Fe, NM	IND	NO
83945	KGLA-DT	Mayavision Inc	H	M	51	New Orleans, LA	Telemundo	NO
30303	WNYB	TCT Ministries, Inc	AI	F	52	Buffalo, NY	REL	NO
35434	KOTV-DT	Griffin Communication	AI	M	59	Tulsa, OK	CBS	NO
78322	KQCW-DT	Griffin Communication	AI	M	59	Tulsa, OK	CW	NO
67792	WAQP	Tri-State Christian Television	AI	F	67	Flint-Saginaw-Bay City, MI	REL	NO
65395	KBFD-DT	Allen Broadcasting Corporation	A	M	71	Honolulu, HI	IND	NO
136750	WZRB	Roberts Broadcasting Company	B	M	77	Columbia, SC	CW	NO
67786	WTCT	TCT Ministries, Inc	AI	F	81	Paducah-Cape Girardeau-Harrisburg-Mt Vernon	REL	NO
35096	KWKB	KM Communications, Inc.	A	F	90	Cedar Rapids-Waterloo-Dubuque, IA	CW	NO
36916	KTDO	ZGS Communications	H	M	91	El Paso, TX	Telemundo	NO
136749	WRBJ	Roberts Broadcasting Company	B	M	93	Jackson, MS	CW	NO
67787	WINM	TCT Ministries, Inc	AI	F	109	Ft. Wayne, IN	REL	NO
25396	WFQX-TV	Cadillac Telecasting Company	H	M	119	Traverse City-Cadillac, MI	FOX	NO
25395	WFUP	Cadillac Telecasting Company	H	M	119	Traverse City-Cadillac, MI	FOX	NO
12930	KTAS	Raul & Consuelo Palazuelos	H	NCI	122	Santa Barbara-Santa Maria-San Luis Obispo, CA	Telemundo	NO
42640	KVIQ	Palazuelos, Raul	H	M	194	Eureka, CA	CBS	NO

There are now only five stations owned by African Americans,³⁰ down 74 percent from the 19 black-owned stations in 2006. Thus, despite comprising 13 percent of the U.S. population, African Americans own a mere 0.4 percent of this country's full-power commercial television stations. In fact three black-owned stations were lost since the Commission last collected ownership data in October 2011.

³⁰ Joeseeph Stroud, owner of WJYS, now reports being a member of two races on the station's Form 323, but in all earlier Form 323 filings Mr. Stroud reported as an African American.

Latinos comprise 16 percent of the U.S. population but own just 22 stations, or 1.6 percent of all full-power commercial broadcast stations. This is a slight increase from the 16 stations owned by Latinos in 2006. However, two Latino-owned stations owned by two different owners have exited the market since the Commission last collected ownership data in October 2011.

B. Analysis of the Recent Form 323 Data Confirms Minority-Ownership Continues to Decline in an Increasingly Consolidated Market

Next we compare the current ownership information presented in Figure 1 with the data from the Free Press ownership studies conducted in 2006 and 2007.³¹ Figure 2 lists the outlets that remained under the same ownership during the entire six-year period (30 stations). Figure 3 contains the stations that became minority-owned since the 2006 Free Press study, and remain minority-owned (12 stations). Figure 4 lists the stations that were identified as minority-owned in the 2006 and/or 2007 Free Press studies but which are no longer minority-owned (26 stations).

Of the nine minority-owned firms that added stations since 2006 (Figure 3), the only new entrants into the broadcasting market are Cadillac Telecasting Company and The Murelo Group.³² The Murelo Group acquired KWHY-TV in a deal that was only

³¹ The 2006 and 2007 Free Press studies missed five stations owned by TCT Ministries, as a change in the voting shares among the family members of this company that took place in 2002 was not reflected in the Form 323s filed until late 2007. *See* BALCT-20020412AAH. This error results in the number of minority-owned stations as of October 2006 increasing to 52, and the 2007 figure increasing to 48.

³² The current majority-owner of Hero Group was an owner of Bella Broadcasting, which previously controlled KBEH and KMOH. Multicultural Broadcasting was a radio station owner prior to acquiring six full power TV stations in 2007, later selling or losing 5 of those stations due to bankruptcy. Jeff Chang held low-power TV licenses before acquiring KQSL. All other firms in Table 3 were existing full-power TV license holders.

made possible because of the Commission enforcing its local ownership rules that prevented Comcast-NBCU from owning three stations in the Los Angeles Market.

Of the 12 stations shown in Figure 3, two (WRLM and WRAY) were transferred from one minority-owned firm to another. Therefore, over the past six years there were nearly three minority-owned stations lost for every minority-owned station added.

The stories behind the stations listed in Figure 4 offer important lessons about the plight of minority owners in an increasingly concentrated broadcast television market. Granite Broadcasting, whose majority voting interests were held until early 2007 by W. Don Cornwell (an African-American man), owns ten full-power commercial television stations. However, due to significant financial problems, Granite entered into a bridge financing agreement in July 2006 with a private equity firm (Silver Point Finance LLC) resulting in Mr. Cornwell losing control of the firm's voting shares and thus in the loss of the nation's largest minority-owned television company.³³

³³ See BTCCT-20070214ABB.

Figure 2:
Current Minority-Owned Full-Power Commercial TV Stations
That Were Identified as Minority-Owned in the 2006 Free Press Study

FCC ID	Calls	Owner	Race	Gender	DMA Rank	DMA	Affiliation
43952	WMBC-TV	Mountain Broadcasting Corp (NJ)	A	M	1	New York, NY	IND
16729	KVMD	KVMD Acquisition Corporation	H	M	2	Los Angeles, CA	IND
55083	KXLA	KXLA TV 44 Inc	H	M	2	Los Angeles, CA	IND
14000	KJLA	LATV Holdings, LLC	H	M	2	Los Angeles, CA	IND
22161	KRCA	Liberman Broadcasting Inc	H	M	2	Los Angeles, CA	IND
32334	WJYS	Jovon Broadcasting	B	M	3	Chicago, IL	IND
61111	WMGM-TV	Access.1 Communications	B	M	4	Philadelphia, PA	NBC
29015	KPWD	HIC Broadcast Inc	H	NCI	6	Dallas-Ft. Worth, TX	IND
73701	KMPX	Liberman Broadcasting Inc	H	M	6	Dallas-Ft. Worth, TX	INS
69531	KZJL	Liberman Broadcasting Inc	H	M	10	Houston, TX	INS
27387	WGEN-TV	Cumbia Entertainment LLC	H	M	16	Miami - Ft. Lauderdale, FL	INS
72053	WSBS-TV	Spanish Broadcasting System	H	M	16	Miami - Ft. Lauderdale, FL	INS
67781	WTLJ	Tri-State Christian Television	AI	F	39	Grand Rapids-Kalamazoo-Battle Creek, MI	REL
60793	KCHF	Son Broadcasting Inc	H	F	45	Albuquerque-Santa Fe, NM	IND
25382	KWTV	Griffin Communications	AI	M	46	Oklahoma City, OK	CBS
54452	WLXI	TCT Ministries, Inc	AI	F	46	Greensboro-High Point-Winston Salem, NC	REL
30303	WNYB	Tri-State Christian TV Inc	AI	F	49	Buffalo, NY	IND
83945	WHMM-DT	Mayavision Inc	H	M	54	New Orleans, LA	?
35434	KOTV	Griffin Communications	AI	M	62	Tulsa, OK	CBS
78322	KQCW	Griffin Communications	AI	M	62	Tulsa, OK	CW
67792	WAQP	Tri-State Christian Television	AI	F	67	Flint-Saginaw-Bay City, MI	REL
65395	KBFD	Allen Broadcasting Corporation	A	M	72	Honolulu, HI	IND
67786	WTCT	TCT Ministries, Inc	AI	F	81	Paducah-Cape Girardeau-Harrisburg-Mt Vernon	REL
136750	WZRB	Roberts Broadcasting Companies	B	M	83	Columbia, SC	CW
136749	WRBJ	Roberts Broadcasting Companies	B	M	87	Jackson, MS	CW
35096	KWKB	KM Communications Inc	A	F	89	Cedar Rapids-Waterloo-Iowa City-Dubuque, IA	CW, My
36916	KTDO	ZGS Broadcast Holdings Inc	H	M	99	El Paso, TX	TEL
67787	WINM	TCT Ministries, Inc	AI	F	109	Ft. Wayne, IN	REL
12930	KTAS	Palazuelos, Raul	H	NCI	122	Santa Barbara-Santa Maria-San Luis Obispo, CA	TEL
42640	KVIQ	Palazuelos, Raul	H	M	193	Eureka, CA	CBS

Figure 3:
Current Minority-Owned Full-Power Commercial TV Stations That Became
Minority-Owned After the 2006 Free Press Study

FCC ID	Calls	Owner	Race	Gender	DMA Rank	DMA	Affiliation
56384	KBEH	Hero Broadcasting, LLC	H	M	2	Los Angeles, CA	tr3
63865	KILM	Multicultural Broadcasting	A	M	2	Los Angeles, CA	IND
26231	KWHY-TV	The Murelo Group	H	M	2	Los Angeles, CA	MundoFOX
23142	WWSI	ZGS Communications	H	M	4	Philadelphia, PA	Telemundo
8378	KQSL	Jeff Chang	A	M	6	San Francisco-Oakland-San Jose, CA	RTV
24753	KMOH-TV	Hero Broadcasting, LLC	H	M	13	Phoenix, AZ	MundoFOX
37101	KETD	Liberman Broadcasting, Inc.	H	M	17	Denver, CO	Estrella TV
43870	WRLM	TCT Ministries, Inc	AI	F	18	Cleveland-Akron, OH	REL
57221	WRBU	Roberts Broadcasting Company	B	M	21	St. Louis, MO	MyNet
10133	WRAY-TV	TCT Ministries, Inc	AI	F	24	Raleigh-Durham, NC	IND
77512	KPNZ	Liberman Broadcasting Inc	H	M	35	Salt Lake City, UT	IND
25396	WFQX-TV	Cadillac Telecasting Company	H	M	119	Traverse City-Cadillac, MI	FOX
25395	WFUP	Cadillac Telecasting Company	H	M	119	Traverse City-Cadillac, MI	FOX

Figure 4:
Full-Power Commercial TV Stations Identified as Minority-Owned in the 2006/2007
Free Press Studies that Are No Longer Minority-Owned

FCC ID	Calls	Owner	Race	Gender	DMA Rank	DMA	Affiliation
70493	WSAH	Multicultural Radio Broadcasting Inc	A	M	1	New York, NY	IND
51189	KBWB	Granite Broadcasting Corp	B	M	5	San Francisco-Oakland-San Jose, CA	IND
71586	KCNS	Multicultural Radio Broadcasting Inc	A	M	6	San Francisco-Oakland-San Jose, CA	IND
41436	WMFP	Multicultural Radio Broadcasting Inc	A	M	7	Boston, MA	IND
74211	WMYD	Granite Broadcasting Corp	B	M	11	Detroit, MI	My
35104	KCFG	KM Communications Inc	A	F	12	Phoenix, AZ	IND
49264	KHCV	Northern Pacific International TV	AI	M	14	Seattle-Tacoma, WA	AZT
68545	WJJA	TV-49 Inc	B	M	34	Milwaukee, WI	IND
32621	KVAW	Zavaletta Broadcasting Group	H	M	37	San Antonio, TX	tr3
54176	WKBW-TV	Granite Broadcasting Corp	B	M	49	Buffalo, NY	ABC
16203	KSEE	Granite Broadcasting Corp	B	M	55	Fresno-Visalia, CA	NBC
72348	KSCW	Banks Broadcasting Inc	B	M	67	Wichita - Hutchinson, KS	CW
74151	WTVH	Granite Broadcasting Corp	B	M	79	Syracuse, NY	CBS
62354	KTLM	Sunbelt Multimedia Company	H	M	88	Harlingen-Weslaco-Brownsville-McAllen, TX	TEL
74592	WAZE-TV	Roberts Broadcasting Companies	B	M	101	Evansville, IN	CW
13960	WISE-TV	Granite Broadcasting Corp	B	M	106	Ft. Wayne, IN	NBC
59363	KNIN-TV	Banks Broadcasting Inc	B	M	113	Boise, ID	CW
24801	WEEK-TV	Granite Broadcasting Corp	B	M	116	Peoria-Bloomington, IL	NBC
84164	KEJB	KM Communications Inc	A	F	136	Monroe, LA-El Dorado, AR	My
33658	KBJR-TV	Granite Broadcasting Corp	B	M	137	Duluth, MN-Superior, WI	NBC
82698	KRII	Granite Broadcasting Corp	B	M	137	Duluth, MN-Superior, WI	NBC
23337	WBNG-TV	Granite Broadcasting Corp	B	M	157	Binghamton, NY	CBS
35103	KBEO	KM Communications Inc	A	F	163	Idaho Falls-Pocatello, ID	IND
86205	KPIF	KM Communications Inc	A	F	163	Idaho Falls-Pocatello, ID	CW
13792	KTGF-TV	Destiny Licenses LLC	B	M	191	Great Falls, MT	FOX
81570	KIDA	Turner Communications Incorporated	B	F	193	Twin Falls, ID	IND

Several stations were casualties of the DTV transition, illustrating the precarious financial nature of these small-station minority-owned enterprises. KM Communications lost four stations through license revocations due to lack of funds to make the transition from analog to digital broadcasting.³⁴ Roberts Brothers Broadcasting lost WAZE-TV for a similar reason.³⁵ KIDA, the only female African American-owned station, also was lost due to a failure to make the DTV transition.³⁶

Other stations were lost in bankruptcy or sold to in-market owners under failing station waivers. African-American-owned Banks Broadcasting sold both of its stations to non-minority owners through failing station waivers.³⁷ Multicultural Broadcasting, after

³⁴ See e.g. BLSTA-20111005AAQ.

³⁵ See Letter from Kevin Harding, Associate Chief, Video Division, Media Bureau, Federal Communications Commission to Roberts Brothers Broadcasting, Mar. 24, 2011.

³⁶ See Letter from Clay C. Pendarvis, Associate Chief, Video Division, Media Bureau to Marcia T. Turner d/b/a Turner Enterprises, Oct. 6, 2009.

³⁷ See BALCT-20080701AEB and BALCT-20070330ATL.

purchasing six stations at the end of 2006, lost five of these stations by 2011 as a result of bankruptcy.³⁸ KTLM was also put into receivership after its owner encountered financial difficulties.³⁹ An investor group led by Michael Dell purchased Seattle's KHCV at auction after the former owner entered bankruptcy.⁴⁰ African-American-owned Destiny Communications transferred the license for KTGF to its creditor after defaulting on loan payments.⁴¹ Of the 26 minority-owned stations lost since 2006, only WJJA was transferred under non-financially distressed conditions.

These anecdotal data along with the previously presented econometric evidence clearly show minority-owners are feeling the financial pressures created and exacerbated by local media market consolidation. As markets become more concentrated, artificial economies of scale are created. This drives away potential new entrants in favor of existing large chains. Concentration also has the effect of diminishing the ability of existing smaller station groups and single-station owners to compete for both advertising and programming contracts. These effects combine to create immense pressure for smaller owners to sell their stations. And this destructive cycle disproportionately impacts women and minority owners, as they are far more likely to own just a single station in comparison to their white-male and corporate counterparts. Current female and minority owners are driven out of markets; and discrimination in access to deals, capital and equity, combined with the higher barriers to entry created by consolidation, shut out new female and minority owners.

³⁸ See "Multicultural group going into breakup mode," *Radio/Television Business Report*, Nov. 5, 2008; see also "Multicultural clears out a TV on each coast," *Television Business Report*, Jan. 31, 2011.

³⁹ See BALCDT-20120910ABU.

⁴⁰ See BALCDT - 20100618AYZ and BALCDT - 20110708ABE.

⁴¹ See BALCDT - 20090922ABP.

In fact, this practical impact of Commission rules allowing greater local market consolidation was described in 2007 by several minority-owners who have subsequently lost stations or exited the market completely. For example, Lyle Banks, former owner of KSCW and KNIN, told the Commission:

The FCC's media ownership rules have enabled much larger companies to grow at the expense of smaller companies like mine. Consolidated operators are more capable of controlling their costs through economies of scale. Consolidation also allows these larger companies a greater advantage in purchasing programs, employee benefits, and in obtaining many other assets as well. The financial leverage that conglomerates are afforded through their multiple sources of revenue allow them to buy stations at higher prices than small business owners can afford to pay, which makes it very difficult to compete in the current media arena. [...] Media consolidation has also affected my ability to retain talented sales people. Larger companies are able to offer sales associates higher salaries than we could afford to offer. This is a very difficult challenge since the revenue generated from our sales department is our chief source of income. By implementing policies that foster the interests of larger conglomerates, the FCC has affected my ability to compete in the broadcast market.⁴²

Darnell Washington of Destiny Communications, former owner of KTGF told the Commission in 2007:

The FCC's rules, which allow for heavy consolidation within and among markets, have made it extremely difficult for me, a small media owner, to compete with large companies that own ten or more television stations in the region. Consolidated ownership makes it difficult for me to negotiate for syndicated programming because the large owners control the pricing of programming. [...] Because the FCC has allowed so much consolidation, the larger advertisers gravitate toward the consolidated media owners and never give us a first glance. This unfair advantage keeps us out of the game before we get a chance to enter the stadium. My experience has been that media consolidation eliminates jobs, diminishes the diversity of voices, and crushes entrepreneurship. The FCC's media ownership rules have given an unfair advantage to large media consolidators to the detriment of the spirit of entrepreneurship.⁴³

⁴² *DCS Nov. 2007 Ex Parte*, at Appendix D.

⁴³ *Id.*

The evidence is overwhelming: if the Commission allows more local media market consolidation it will crowd out and raise entry barriers for small businesses, which are far more likely to be firms owned by women and people of color. The Commission's proposed relaxation of the newspaper-television cross-ownership rule will be particularly harmful. Nearly half of all the current minority-owned stations are located in the largest 20 Designated Market Areas and are non-top four ranked stations, making them prime acquisition targets. And though it is of course possible that some of these owners who sell could re-enter the broadcast market, history suggests this is highly unlikely. That's especially true given the increased barriers to entry that would exist as a result of Commission actions to increase local market consolidation and the pending auction of TV broadcast stations to cellular companies.⁴⁴

CONCLUSION

Civic participation and effective democracy are predicated on a diverse and robust media. The Commission has taken a step in the right direction by attempting to gather accurate data on female and minority broadcast ownership levels. Still, there is more work to be done in order to satisfy the Third Circuit's directives and to meet the Commission's own stated policy goals. The Commission must not only gather raw data, but also work to understand how its policies and proposed rule changes impact ownership by women and people of color. Taking into account Free Press's corrections to several inaccurate tallies in the full-power television service census, the *Form 323 Summary Report* shows that already low levels of minority ownership in that service are dwindling.

⁴⁴ See In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, MB Docket No. 12-268, *Notice of Proposed Rulemaking*, 27 FCC Rcd 12357 (2012).

Furthermore, a more comprehensive analysis reveals that minority broadcast stations that exited the market overwhelmingly did so due to financial distress – the same kind of financial distress that is exacerbated by media consolidation. It follows that the Commission is in no position to justify further consolidation of broadcast markets. If the Commission is serious about fulfilling its obligations to serve the public interest and promote diversity, it must not relax cross-ownership rules further on this record, and must instead complete the necessary analysis before effectuating irreversible harms to diversity, localism, and competition.

Respectfully submitted,

_____/s/_____
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