

September 14, 2021

Acting Chairwoman Jessica Rosenworcel
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Request for Notice of Inquiry into History of Systemic Racism in FCC Policy and Licensing

Dear Chairwoman Rosenworcel:

Since the murder of George Floyd last year, a racial reckoning has taken place in our country that has forced public and private institutions — including the media — to acknowledge their histories of racism.

Black journalists have challenged several major media organizations to address the harms they have caused within their newsrooms and to communities of color. Both *The Los Angeles Times* and *The Kansas City Star* published apologies last year acknowledging their histories of racism, including anti-Black racism.¹ And now many Black journalists are calling on other newsrooms to do the same.

But media institutions are not solely responsible for the systemic racism that exists in our media system. Federal policies and the choices made by lawmakers and regulators have also played a foundational role.

Reps. Jamaal Bowman, Yvette Clarke and Brenda Lawrence authored a letter to the Federal Communications Commission signed by 22 more of their congressional colleagues that calls on the agency to conduct an equity audit to “address and redress the harm the agency’s policies and programs have caused Black and brown communities and identify the affirmative steps the agency commits to taking to break down barriers to just media and telecommunication practices.”²

We join these congressional leaders in calling on the FCC to investigate its own history of anti-Black racism in the policies it has adopted. We also call on the Commission to issue a Notice of Inquiry and identify reparative actions it will take to redress the structural racism that exists in our media system due to those FCC policies.

¹ “Editorial: An examination of The Times’ failures on race, our apology and a path forward,” *The Los Angeles Times* (Sept. 27, 2020), <https://www.latimes.com/opinion/story/2020-09-27/los-angeles-times-apology-racism>; Mike Fannin, “The Truth in Black and White: An Apology from The Kansas City Star,” *The Kansas City Star* (Dec. 20, 2020), <https://www.kansascity.com/news/local/article247928045.html>; see also Joseph Torres *et al.*, *Media 2070, Media 2070: An Invitation to Dream Up Media Reparations*, at 66–78 (Oct. 6, 2020) (“Media 2070 Essay”), <https://mediareparations.org/essay/>.

² Letter from Reps. Jamaal Bowman, Ed.D, Yvette Clarke, Brenda Lawrence, *et al.*, to Hon. Jessica Rosenworcel, Federal Communications Commission (June 28, 2021), https://bowman.house.gov/_cache/files/6/5/65b9a1a7-3553-4d5b-9d69-b8a92c0e628d/3290E56EAC603E81B4CFE58A5DAEBEF1.0628-congressional-letter-on-fcc-racial-equity-assessment-final.pdf.

In addition, we urge the FCC to conduct this investigation in the spirit of President’s Joseph Biden’s executive order on racial equity that directs administrative agencies — and strongly encourages independent agencies — to examine how “[e]ntrenched disparities in our laws and public policies, and in our public and private institutions, have often denied [] equal opportunity to individuals and communities.”³

It’s time for the FCC to acknowledge that its policies and practices are a primary reason for deep structural inequities existing in the media and telecom industries that have harmed the Black community. We call on the agency to examine these policies and practices in an intersectional way that highlights the multiple axes of harm to Black women, Black LGBTQIA+ people, Black disabled people, Black Indigenous people, Black poor people and others held within the spectrum of Blackness.

As you know, our nation began regulating the commercial broadcast industry in 1927 with the creation of the Federal Radio Commission (FRC). This led to the founding of the Federal Communications Commission in 1934.

These agencies awarded the first commercial radio licenses for free to white owners during a time of segregation and racial terrorism. This allowed license holders like NBC and CBS to amass wealth through use of the public airwaves, and it positioned these companies to continue to prosper during the media industry’s evolution. But the story has been far different for the Black community.

Many of these initial broadcast licensees actively promoted hate and segregation over the public airwaves. For example, in 1927 the FRC awarded a broadcast license to an entity affiliated with the Ku Klux Klan.⁴ During the civil-rights movement, the White Citizens’ Council distributed to stations across the country television and radio programming that defended segregation.⁵ In 1969, the Department of Justice’s Community Relations Service stated that “few American institutions have so completely excluded minority group members from influence and control as have the news media. This failure is reflected by general insensitivity and indifference and is verified by ownership, management, and employment statistics.”⁶

FCC policies have built and sustained structural racism in our media system, including inequitable access to ownership opportunities for Black, Indigenous and Afro-Latinx communities. This dynamic has

³ *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, E.O. 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

⁴ Cary O’Dell, “WJSV (Washington, D.C., complete day of radio broadcasting, Sept. 21, 1939),” Library of Congress, <https://www.loc.gov/static/programs/national-recording-preservation-board/documents/WJSV.pdf> (last accessed Sept. 12, 2021); Juan González and Joseph Torres, *News for All the People: The Epic Story of Race and the American Media*, at 206–208 (2011).

⁵ Media 2070 Essay at 6.

⁶ Department of Justice, *1969 Annual Report of the Community Relations Service*, at 22 (“1969 DOJ Community Relations Service Annual Report”).

remained in place even as changes in technology have resulted in the emergence of new media systems since the Commission's founding to regulate radio in 1934, such as television, cable and the internet.

The first Black-owned radio station didn't exist until the late 1940s — two decades after the establishment of the commercial radio industry.⁷ By 1969, Black people still owned fewer than 12 radio outlets.⁸ And it wasn't until 1973 that the first Black-owned commercial television station was licensed.⁹

Meanwhile, this year marks the 25th anniversary of Congress's passage of the 1996 Telecommunications Act, which paved the way for FCC deregulation that permitted runaway media consolidation — making it even harder for the Black community to own broadcast outlets.

Due in large part to FCC policies, from 1998–2007 there was a 70-percent drop in the number of full-power commercial TV stations that were Black-owned.¹⁰ This meant that Black people owned just 8 TV stations — 0.6 percent of all full-power stations.¹¹ And by 2019, still only 18 full-power TV stations — or 1.3 percent — were owned by Black owners.¹²

Today, Black people own and control a minuscule number of broadcast and cable companies. Meanwhile, the largest companies in these industries have aggressively and successfully lobbied to retain and further consolidate their power, with no regard for the impacts on the Black community.

In January, the National Association of Broadcasters argued before the U.S. Supreme Court that the Commission should not have to consider the impact of its broadcast-ownership policies on women and people of color when considering changes to its ownership limits.¹³ The court upheld the Trump FCC's decision to gut longstanding ownership limits, and this ruling will likely make it even harder for Black people and other communities of color to own broadcast stations.

⁷ Yasmin Amer, "America's First Black-Owned Radio Station Let the Words of MLK and Others Ring," CNN (Feb. 10, 2016), <https://www.cnn.com/2016/02/10/living/werd-first-black-radio-station-feat/index.html>; "WERD," *New Georgia Encyclopedia* (last edited on Aug. 24, 2020), <https://www.georgiaencyclopedia.org/articles/arts-culture/werd>; Dr. Alan B. Albarran and Brian Hutton, *A History of Spanish Language Radio in the United States*, at 9 (2009), http://www.arbitron.com/downloads/mcl_unt_history_spanish_radio.pdf.

⁸ 1969 DOJ Community Relations Service Annual Report at 22.

⁹ Antoinette Cook Bush and Marc S. Martin, "The FCC's Minority Ownership Policies from Broadcasting to PCS," 48 *Federal Communications L.J.* 423, 439 (1996), <https://www.repository.law.indiana.edu/fclj/vol48/iss3/3/>; William K. Stevens, "Black TV Station Opens in Detroit," *The New York Times* (Sept. 30, 1975), <https://www.nytimes.com/1975/09/30/archives/black-tv-station-opens-in-detroit-wgpr-believed-to-be-first.html>. The article notes that there were two Black-owned stations in the U.S. Virgin Islands.

¹⁰ S. Derek Turner & Mark Cooper, Free Press, *Out of The Picture 2007: Minority & Female TV Station Ownership in the United States*, at 3 (Oct. 2007), <https://www.freepress.net/sites/default/files/legacy-policy/otp2007.pdf>.

¹¹ *Id.* at 2.

¹² Federal Communications Commission, "Fifth Report on Ownership of Broadcast Stations" (Sept. 2021), <https://docs.fcc.gov/public/attachments/DA-21-1101A1.pdf>.

¹³ See, e.g., Brief of Industry Petitioners at 4–5, 20 (filed Nov. 16, 2020), *FCC v. Prometheus Radio Project*, Docket No. 19-1231, https://www.supremecourt.gov/DocketPDF/19/19-1231/160867/20201116162325678_NAB%20v.%20Prometheus%20--%20Opening%20Brief.pdf.

In addition, FCC policy decisions — and inaction — in regards to its internet policies have resulted in a digital divide where Black, Latinx and Indigenous households are far less likely to have adequate home-broadband services than white ones.¹⁴ This means exacerbated harm for Black, Latinx and Indigenous families. As the pandemic has made plain — and as you have acknowledged on many occasions — this divide has dramatically worsened our nation’s racial inequities and has had particularly cruel impacts on our children.

And as our nation finally grapples with the crushing impacts of online disinformation campaigns that have spread lies about the pandemic, elections and Black racial-justice leaders, it’s important for the FCC to recognize that these efforts are nothing new — and are not unique to social media. FCC-regulated media companies have been among the chief architects of deadly narratives of Black inferiority and criminality. These narratives have been weaponized as part of political-disinformation efforts aimed at harming and disenfranchising the Black community.

A Color Of Change and Family Story study found that Black families represented 59 percent of stories about poverty in “news and opinion media” — even though they make up just 27 percent of poor families in the country.¹⁵ And across the nation, activists have fought against conservative talk-radio shows that use coded language to perpetuate racist narratives.

In Wisconsin, for instance, a coalition of community groups created the Radio-Active campaign in 2016¹⁶ to monitor allegations of on-air bigotry from WISN Radio’s Jay Weber, Mark Belling and Vicki McKenna and WTMJ Radio’s Charlie Sykes and Jeff Wagner, whom they alleged “prey on intense racial disparities of southeastern Wisconsin in terms of the economy and the criminal justice system.” Citizen Action of Wisconsin Executive Director Robert Kraig describes this dynamic: “If you talk about poor people who are dependent on government, conservative white voters understand that to mean African-American people.”¹⁷

During the civil-rights movement, Southern broadcast stations used the public airwaves to oppose integration. And powerful radio and cable outlets today portray the Black community as a threat to society, attempting to justify the historical and ongoing police brutality and state violence that led to the 2020 global uprising for Black lives.

¹⁴ See, e.g., Comments of Free Press, GN Docket No. 20-269, at 3–4 (filed Sept. 18, 2020), https://www.freepress.net/sites/default/files/2021-04/corrected_copy_of_free_press_2020_706_inquiry_comments_0.pdf.

¹⁵ Dr. Travis L. Dixon, Color Of Change and Family Story, *A Dangerous Distortion of Our Families: Representations of Families, by Race, in News and Opinion Media*, at 25 (Dec. 2017), https://colorofchange.org/wp-content/uploads/2019/05/COC-FS-Families-Representation-Report_Full_121217.pdf.

¹⁶ Bill Martens, “Activists Debate Racism’s Role In Conservative Talk Radio In Milwaukee,” Wisconsin Public Radio (Feb. 23, 2016), <https://www.wpr.org/activists-debate-racisms-role-conservative-talk-radio-milwaukee>.

¹⁷ *Id.*

There is so much we still do not know when it comes to how the FCC has either condoned or been indifferent to anti-Black racism in the industries it regulates even as it's adopted policies that have excluded Black people from ownership opportunities.

This is why we are calling on the FCC to investigate and fully account for the racist impact its media and telecom policies have had on all Black people across gender, sexuality, disability, class, tribal affiliation and ethnicity. We are urging the agency to examine the roots of its failure to create a racially just media system. We believe that anti-Black media policies have resulted in the marginalization of Black voices and narratives, the perpetuation of the myth of Black inferiority, and the exclusion of and harm toward other communities of color.

We believe that, in the words of Black Lives Matter co-founder Alicia Garza, "When Black people get free, everybody gets free." We look forward to working in coalition with groups across a variety of identities to ensure we collectively build the media system we know is possible. Now is the time to deeply examine the agency's history of anti-Black harm, and to begin to chart a path forward toward a future abundant with repair.

Respectfully Submitted,

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Center for Story-based Strategy
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Fix Democracy First
Foundation of the Alliance for Community Media
Free Press
Friends of the Earth
Future of Music Coalition
Gather
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GLAAD
Global Project Against Hate and Extremism
Globalvision
Greenpeace US
Hawaii Arts Alliance
Independent Media Association (IMA)
Indigenously
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Kairos Action
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Liberation Ventures
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Media Alliance
Media Inequality & Change (MIC Center)
Media Matters Action Network
MediaJustice
Mightybytes
Mijente
Movement Alliance Project

National Association of Black Journalists
National Association of Hispanic Journalists (NAHJ)
National Consumer Law Center, on behalf of its low-income clients
National Digital Inclusion Alliance
National Hispanic Media Coalition
National Newspaper Publishers Association
New Georgia Project Action Fund
NTEN
Open Media Foundation
Open MIC (Open Media and Information Companies Initiative)
Open Technology Institute
OVEC-Ohio Valley Environmental Coalition
People's Paper Co-op
Philadelphia Reentry Think Tank
PhillyCAM
Press On
Progress Arizona
Public Citizen
Public Justice Center
Public Knowledge
Robert C. Maynard Institute for Journalism Education
Scalawag
Sean Medlin
SPEAK MPLS
SumOfUs
The Black Wall Street Times
The Pivot Fund
The Shoestring
The Washington Center for Technology Policy Inclusion (WashingTECH)
UCLA Center for Critical Internet Inquiry (C2i2)
UltraViolet Action
United Church of Christ, OC Inc.
UpTake Institute
Voces Unidas
WITNESS
Writers Guild of America East
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