

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Review of EEO Compliance and)	MB Docket No. 19-177
Enforcement in Broadcast and Multichannel)	
Video Programming Industries)	
)	

**REPLY COMMENTS OF
NCTA – THE INTERNET & TELEVISION ASSOCIATION**

NCTA – The Internet & Television Association (“NCTA”)¹ submits this reply to the comments on the *Notice of Proposed Rulemaking* in the above-captioned proceeding, in which the Commission seeks comment on equal employment opportunity (“EEO”) compliance and enforcement.² NCTA appreciates the opportunity to comment on the Commission’s EEO rules and procedures.

DISCUSSION

Diversity and inclusion are core values in the cable industry. NCTA’s members recognize that much of the cable industry’s success is directly attributable to the diversity of their employees’ views, opinions, and experiences, and they continually strive to foster greater diversity and inclusion in their workforces. Their efforts have helped the cable industry make steady strides in the hiring and advancement of women and people of color—strides confirmed

¹ NCTA is the principal trade association of the cable television industry in the United States, which is a leading provider of residential broadband service to U.S. households. Its members include owners and operators of cable television systems serving nearly 80% of the nation’s cable television customers, as well as more than 200 cable program networks. Cable service providers have invested more than \$290 billion over the last two decades to deploy and continually upgrade networks and other infrastructure—including building some of the nation’s largest Wi-Fi networks.

² *Review of EEO Compliance and Enforcement in Broadcast and Multichannel Video Programming Industries*, Notice of Proposed Rulemaking, 34 FCC Rcd. 5358 (2019) (“*NPRM*”).

by biennial surveys conducted by the cable industry's associations representing women and people of color, Women in Cable Telecommunications ("WICT") and the National Association for Multi-Ethnicity in Communications ("NAMIC"). The past two WICT and NAMIC diversity studies, for example, have shown consistent increases in representation of people of color in the industry, with the largest gains among cable operators.³ These diversity studies also help the cable industry assess where work remains to be done, so that companies can individually and collectively continue to advance diversity and inclusion in the cable workforce.

NCTA's members also appreciate and support the Commission's commitment to equal employment opportunity. As the *NPRM* notes, the Commission's rules require, among other things, that cable operator employment units of a certain size establish, maintain, and carry out a positive continuing program of practices designed to ensure equal opportunity in employment policy and practice.⁴ As part of this program, cable operators must meet certain recruiting requirements for full-time vacancies, complete longer-term recruitment initiatives each year,⁵ and file a report on their EEO outreach efforts annually.⁶ NCTA's members are dedicated to upholding both the letter and the spirit of the Commission's rules, and as the WICT and NAMIC diversity studies help demonstrate, the Commission's rules and current enforcement procedures

³ See NAT'L ASS'N FOR MULTI-ETHNICITY IN COMM'NS ET AL., 2019 NAMIC-WICT DIVERSITY STUDY EXECUTIVE SUMMARY 4 (2019); NAT'L ASS'N FOR MULTI-ETHNICITY IN COMM'NS, 2017 CABLE AND COMMUNICATIONS INDUSTRY MULTI-ETHNIC DIVERSITY REPORT 6 (2017).

⁴ See *NPRM* ¶ 2; 47 C.F.R. §§ 76.73(b), 76.75. The Commission's rules prohibit all cable operators, regardless of size, from discriminating on the basis of race, color, religion, national origin, age, or sex. See 47 C.F.R. §§ 76.73(a).

⁵ See 47 C.F.R. § 76.75(b).

⁶ See 47 C.F.R. § 76.77.

are working to promote diversity at all levels of cable industry employment. There is therefore no need for the Commission to adopt new requirements or expand its current practices.⁷

It also bears noting that, under federal law enforced by the U.S. Equal Employment Opportunity Commission (“EEOC”), cable operators have an obligation to hire all employees without discriminating on the basis of race, color, religion, national origin, age, or sex.⁸ Aside from investigating charges of discrimination, the EEOC requires that cable operators retain certain employment records, and further requires that cable operators with 100 or more employees compile and submit detailed annual employment data reports.⁹ Data from these reports is shared with other federal agencies, and aggregated data is also made available to the public.¹⁰

In addition, many cable operators are federal contractors and therefore have obligations under Executive Order 11246, which not only prohibits discrimination against employees and applicants for employment with regard to hiring and other terms and conditions of employment,

⁷ See generally Comments of the EEO Supporters, MB Docket Nos. 19-177, 98-204, at 22-28 (filed Sept. 20, 2019) (“MMTC et al. Comments”) (urging the Commission to adopt additional certifications and expand its audit procedures); Letter from Maurita Coley, President and CEO, Multicultural Media, Telecom and Internet Council, to Rosemary Harold, Esq., Chief, Enforcement Bureau, FCC, MB Docket No. 19-177, at 3 (filed Sept. 3, 2019) (urging the Commission to increase the number of employment units audited each year and randomly select a percentage of audited units for further, on-site reviews).

⁸ Federal laws enforced by the EEOC prohibit employers with at least 15 employees from discriminating on the basis of race, color, religion, sex, national origin, disability, and genetic information. Employers with 20 or more employees are also prohibited from discriminating on the basis of age. See *Frequently Asked Questions*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <https://www.eeoc.gov/employers/smallbusiness/faq/index.cfm> (last accessed Oct. 24, 2019); *Laws Enforced by EEOC*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <https://www.eeoc.gov/laws/statutes/index.cfm> (last accessed Oct. 24, 2019).

⁹ See 29 C.F.R. Part 1602 (containing recordkeeping and reporting requirements under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act); *EEO Reports/Surveys*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <https://eeoc.gov/employers/reporting.cfm> (last accessed Oct. 24, 2019) (“*EEO Reports/Surveys*”). The annual EEO-1 Report requires that company employment data be categorized by race/ethnicity, gender, and job category.

¹⁰ See *EEO Reports/Surveys*.

but also requires certain proactive equal employment measures.¹¹ Compliance with these requirements is aggressively enforced by the U.S. Department of Labor through its Office of Federal Contract Compliance Programs (“OFCCP”), which, like the Commission, periodically audits cable operators’ adherence to the Executive Order.

Additional Commission-specific reporting requirements are therefore unnecessary, and the Commission should decline to impose them.¹² The overlapping oversight and enforcement roles of the Commission, EEOC, and OFCCP, as well as the existing reporting requirements, are sufficient to ensure that any willful violation of federal law or the Commission’s rules regarding employment discrimination can be addressed.

CONCLUSION

The Commission should refrain from adopting new regulations, as the current EEO regime effectively promotes equal opportunity in employment and reinforces the cable industry’s firm commitment to diversity and inclusion.

Respectfully submitted,

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¹¹ See also 41 C.F.R. Chapter 60 (containing regulations implementing Executive Order 11246).

¹² See generally MMTC et al. Comments at 16-22 (urging the Commission to collect additional data from MVPDs).