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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of Commission's ) MM Docket No. 94-34  
Equal Employment Opportunity )  
Rules )

REPLY COMMENTS OF NATIONAL PUBLIC RADIO

National Public Radio, Inc. ("NPR") submits these reply comments to comments filed in response to the Commission's Notice of Inquiry, MM Docket No. 94-34, released April 21, 1994 ("NOI"). This NOI requests comment on the Commission's rules, procedures, policies, standards and guidelines governing equality of employment opportunity in the cable and broadcast industries.

NPR is a non-profit, noncommercial membership organization that provides programming and interconnection services to 492 full-service public radio stations and represents them in developing and maintaining a viable and diverse public radio service for the American public. The rules and policies stemming from the NOI have the potential to affect significantly NPR's member stations.

NPR applauds the Commission's recognition of the importance of promoting equal employment opportunities and enhancing program diversity and access by minorities and women. The NOI reflects the Commission's concern that existing implementation practices

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may impose burdens that are not justified by the benefits in increased participation of minorities and women. Not surprisingly, the initial comments in response to the Commission's Notice of Inquiry are divided between those that assert that the Commission is already doing enough to advance the case of equal employment in the communications industry and those who claim that more should be done overall or in designated areas.

NPR agrees with those commenters that suggest that the recordkeeping and reporting requirements are burdensome on small firms. The NOI noted that approximately 20% of licensees are subjected to a first stage inquiry. It may be that only a minimal number of those are stations below a certain size. One approach might be to use the Title VII numerical cutoff of 15 employees. Alternatively, bearing in mind that the overall impact of enforcement action on the composition of the work force in the broadcast industry is potentially greater if it involves larger stations, the Commission may determine a cutoff number based on its own experience. Small stations would not be relieved of the obligation to comply with the anti-discrimination provisions of the FCC regulation, but would be relieved of the reporting burden.

NPR agrees with the commenters that propose that the Commission can help by clarifying and streamlining the reporting requirements. Many stations, particularly in the noncommercial

sector, may be subject to overlapping affirmative action requirements, by virtue of the licensee being subject to the requirements applicable to government contractors. In some instances, those requirements contemplate more detailed analysis than is provided for in the Commission's Form 396. Particularly, with regard to the "relevant labor market" element, the Commission could state that it will accept a labor market analysis that is done in accordance with the guidelines of the Office of Federal Contract Compliance Programs.

Some commenters have urged the Commission to continue to require stations to report part time employment on the same basis as full time employment. NPR submits that the comments do not demonstrate that the burden on the licensees of reporting part time employment, combined with the burden on the Commission staff of analyzing the data, is outweighed by corresponding benefits in the compliance program. NPR submits that if a station's full time employment profile is within the Commission's guidelines, that should end the inquiry.

Similarly, the impact on station employment of a generic requirement on the vendor issue appears tenuous, based on the comments on this point, so NPR recommends against instituting such a requirement. In a given case, the Commission could well conclude that an institution that spends significant resources with firms owned by minorities or women is unlikely to discriminate in employment -- a positive tone is being projected,

that valuable contributions can be made, without regard to the gender or racial background of the provider. NPR submits that the Commission may elect to accept a licensee's efforts to attract and do business with a variety of vendors as some evidence of a commitment on the licensee's part to achieve diversity in employment. In any event, the Commission may wish to gain experience with the cable industry before adding a mandate in this area to the administrative burdens on the Commission staff and the broadcast industry.

With respect to the reporting categories, the comments do not show substantial likelihood of benefit from using the single position subcategories in broadcast license reports. The Commission's purposes may be equally well served by looking at overall patterns involving top management as set forth in the existing forms.

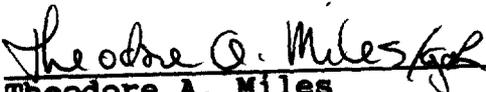
On the issue of promotion and retention, NPR agrees with the commenters that say that those functions are reflected in the present reports. On the retention point in particular, the Commission must recognize that talented minority staff at small stations may well be recruited away by larger stations; that should not be viewed as a retention problem.

NPR concludes by encouraging the Commission to take a positive approach to achieving its equal employment objectives. Based on the Commission's experience, what techniques/recruitment

activities can the Commission recommend to licensees as being particularly effective? Can the Commission identify successful strategies that licensees undertake, such as partnerships with other licensees, unions, schools and others to encourage young people to seek careers in broadcasting? The Commission is uniquely situated to provide leadership in these areas.

Respectfully submitted,

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