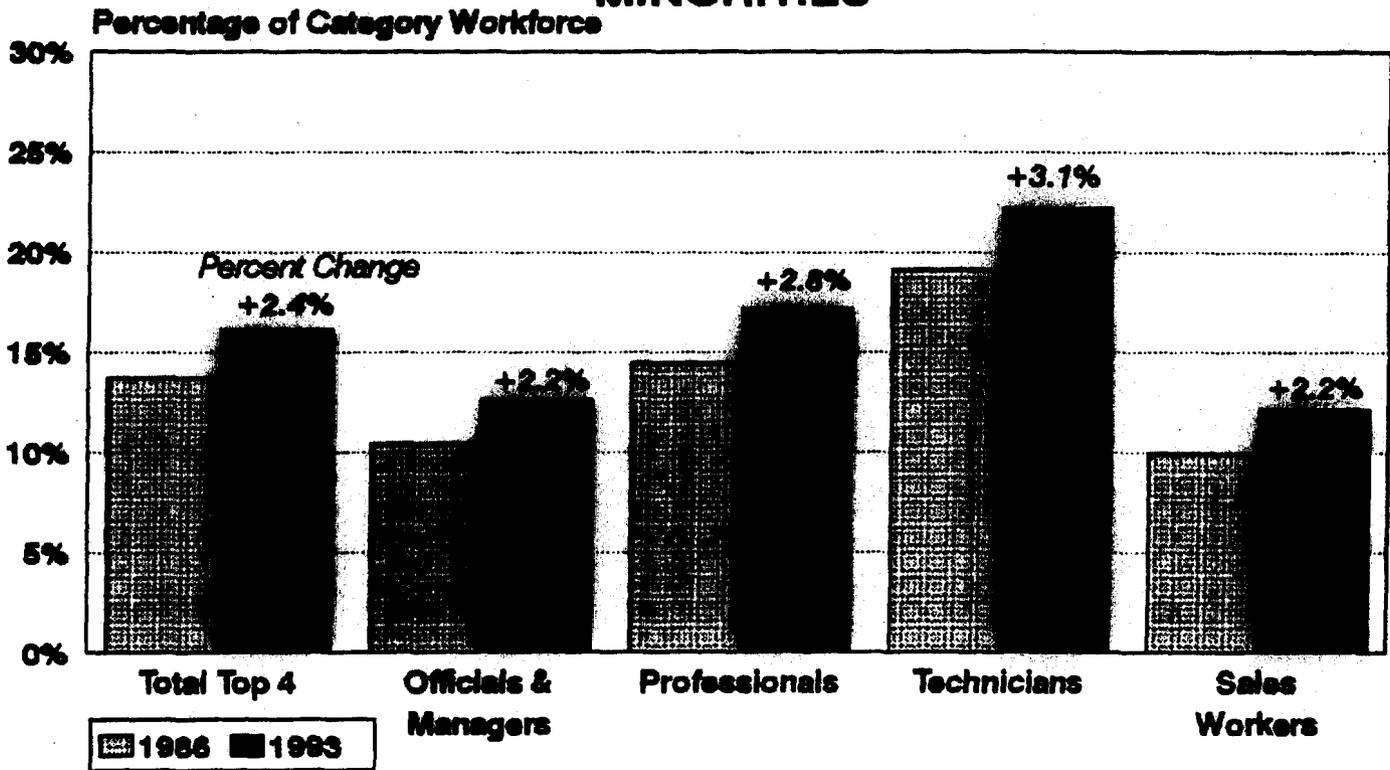


36. **Minorities.** From 1986 to 1993, minorities in the overall national workforce increased from 20.5% to 22.6%, a net gain of 2.1%. During this same time period, minorities in the broadcast industry overall increased from 16.0% to 18.2%, a net increase of 2.2%. See Appendix C. From 1986 to 1993, minorities in the broadcast industry in total upper-level positions increased from 13.7% to 16.1%, a net increase of 2.4%. In the four individual upper-level job categories, minorities increased: from 10.4% to 12.6% for Officials and Managers, a net gain of 2.2%; from 14.4% to 17.2% for Professionals, a net gain of 2.8%; from 19.1% to 22.2% for Technicians, a net gain of 3.1%; and from 9.9% to 12.1% for Sales Workers, a net gain of 2.2%. See chart below.

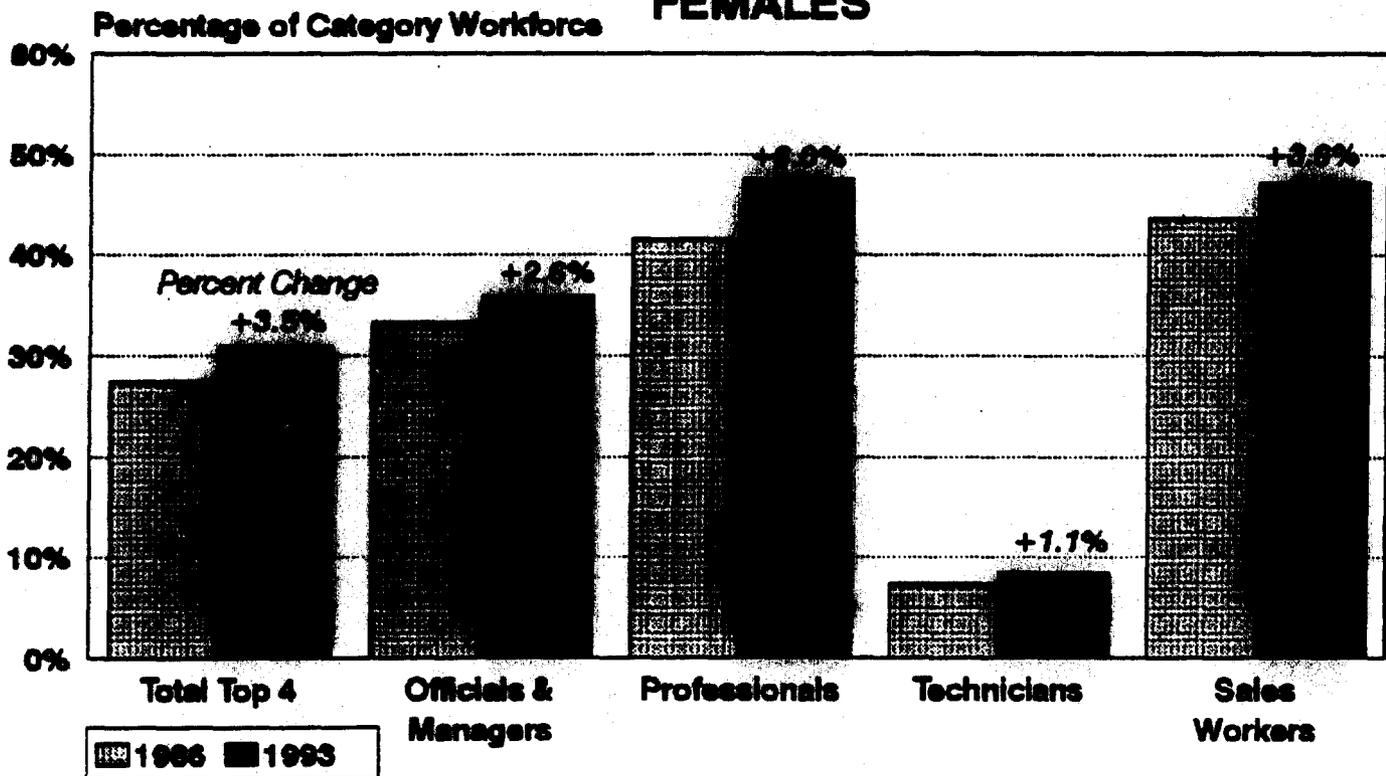
Broadcasting Top 4 Job Categories MINORITIES



B. Cable

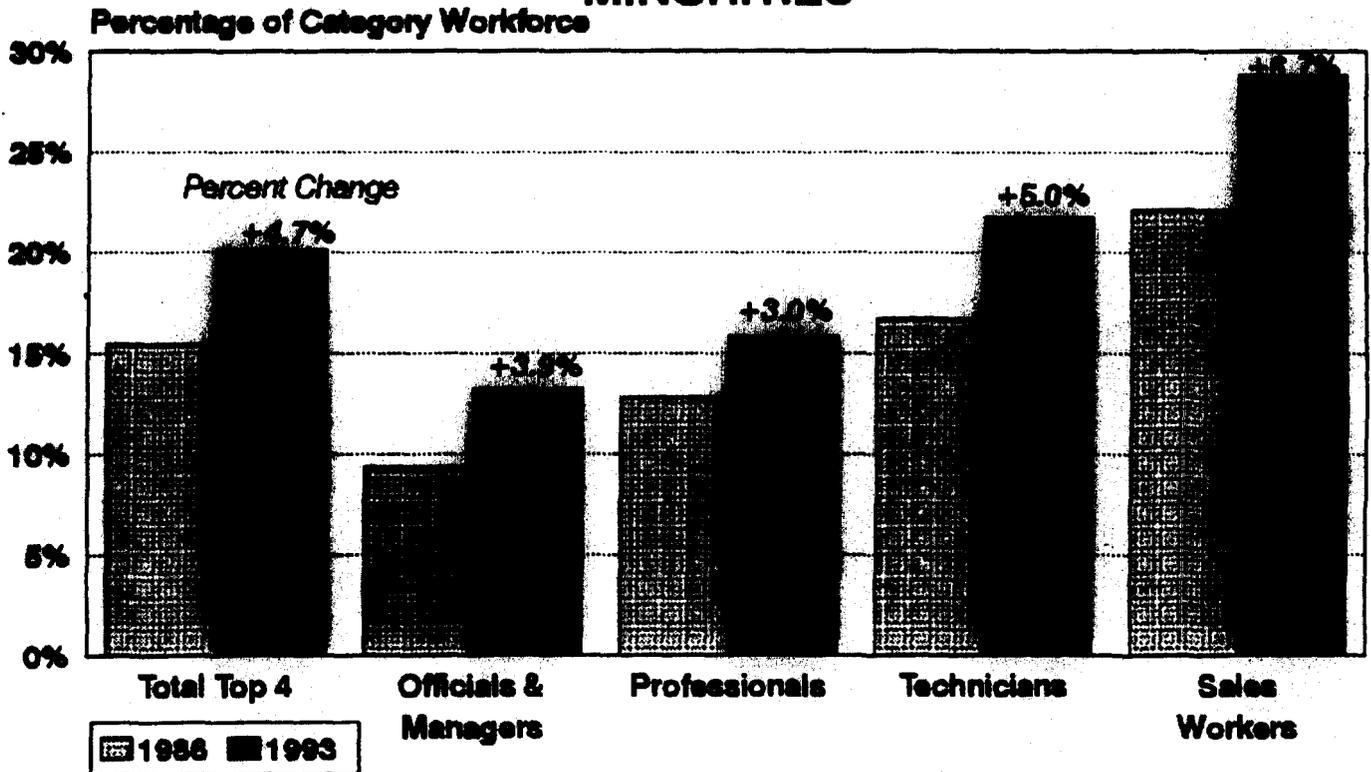
37. Women. From 1986 to 1993, women in the cable industry overall increased from 40.4% to 41.6%, a net increase of 1.2%. See Appendix D. During this same time period, women in the cable industry in total upper-level positions increased from 27.4% to 30.9%, a net increase of 3.5%. In the four individual upper-level job categories, women increased: from 33.3% to 35.9% for Officials and Managers, a net gain of 2.6%; from 41.5% to 47.5% for Professionals, a net gain of 6.0%; from 7.3% to 8.4% for Technicians, a net gain of 1.1%; and from 43.6% to 47.2% for Sales Workers, a net gain of 3.6%. See chart below.

Cable Top 4 Job Categories FEMALES



38. Minorities. From 1986 to 1993, minorities in the cable industry overall increased from 18.5% to 25.3%, a net increase of 6.8%. See Appendix D. During this same time period, minorities in the cable industry in total upper-level positions increased from 15.4% to 20.1%, a net increase of 4.7%. In the four individual upper-level job categories, minorities increased: from 9.3% to 13.2% for Officials and Managers, a net gain of 3.9%; from 12.8% to 15.8% for Professionals, a net gain of 3.0%; from 16.7% to 21.7% for Technicians, a net gain of 5.0%; and from 22.1% to 28.8% for Sales Workers, a net gain of 6.7%. See chart below.

Cable Top 4 Job Categories MINORITIES



C. Analysis

39. Paragraphs 35 through 38 reflect that the employment of women and minorities in the broadcast and cable industries increased from 1986 to 1993 in overall and total upper-level positions, as well as in each of the upper-level job categories. In fact, the data show that most of these increases outpaced the 1.1% growth in women employees and the 2.1% growth in minority employees overall in the "national workforce."⁵⁶ Overall increases in minority and female employment in the broadcast industry occurred despite a significant decrease in overall employment from 1986 to 1993. See Appendix B.

40. The above-cited results demonstrate the apparent success of our EEO policies in increasing minority and female employment in the broadcast and cable industries. Despite the gains made between 1986 and 1993, the 1993 percentages of women in the broadcast and cable industries overall, as well as minorities in the broadcast industry overall, are still below comparable figures for the 1993 overall national workforce. Moreover, the Commission's primary focus in determining EEO compliance is on an individual licensee's overall effort to "establish, maintain, and carry out a positive and continuing program of specific practices designed to ensure equal opportunity in every aspect of station employment policy and practices."⁵⁷ Our focus is on the extent to which licensees seek out and recruit women and minorities whenever job vacancies exist at stations and systems in local markets. In this regard, there continues to be evidence in cases in which the Commission sanctions licensees that women and minorities are still not recruited for a significant number of positions.⁵⁸

V. NOI COMMENTS

41. As stated above, in March 1994, the FCC issued a Notice of Inquiry ("NOI") in which we sought comment on the effect and operation of the equal employment opportunity amendments made by the 1992 Cable Act and on the general effectiveness of the Commission's rules, procedures, policies, standards and guidelines in promoting equality of employment opportunity in the cable, broadcast and other industries. We received a variety of responses to our request for comments which covered a broad range of issues. Some of the important issues are briefly stated

⁵⁶ The national workforce includes individuals aged 16 years and older, both employed and unemployed.

⁵⁷ 47 C.F.R. Section 73.2080.

⁵⁸ See para. 79, infra.

below. The issue areas have been divided into broadcast concerns, cable concerns and emerging technology concerns. In summary, the key broadcast concerns focused on: small market/small staff stations; part-time hires; joint recruitment efforts; administrative burdens imposed by our EEO enforcement; renewal applications; annual employment reports; mid-term reviews; processing guidelines; FCC's EEO Policy Statement; and penalties. In cable, the comments focused on other agency requirements; labor force definition; notice; and annual employment reports. With regard to emerging technologies, the comments generally focused on the pros and cons of the FCC expanding the coverage of its EEO rules to other communications industries.

A. Broadcast

42. Small Market⁵⁹/Small Staff Stations. Some broadcast commenters contend that although they contact a variety of sources, including minority sources, they receive few, if any, minority referrals. Reasons cited for their difficulties included issues such as: low salaries and availability of mostly entry level positions; competition with communications companies in larger markets and/or with larger staffs and other local employers; and limited financial, personnel, and time resources available for recruiting.

43. Commenters put forth suggestions for changes in EEO policies to reflect problems faced by small market broadcasters and/or small staff stations. Some of the suggestions include establishing thresholds of population,⁶⁰ staff size⁶¹ and/or percentage levels of minorities in the labor force⁶² below which recordkeeping of sources and referrals would not be required or required only if a station failed to meet the processing guidelines.⁶³ Several commenters request that the FCC focus on a

⁵⁹ We note that there is no definition for small market stations in our EEO rules.

⁶⁰ Suggestions for population figures include 100,000 in the station's county and 500,000 in the station's market.

⁶¹ Suggestions for staff size range from less than 15 employees to less than or equal to 40 employees.

⁶² Suggestions for the percentage of minorities in the population include less than 10% and less than 20%.

⁶³ In addition, some commenters argue that noncommercial educational stations should be exempted from EEO recordkeeping and reporting requirements. Joint Commenters, see Appendix A, argue that public institutions should not be exempt.

small market station's qualitative recruitment efforts because it may not be realistically able to meet the FCC's numerical goals.

44. Some commenters urge the FCC to incorporate certain factors in its analysis of a small station's EEO program, including amount of turnover of staff, customarily lower salaries, station format, station market ranking, and reduced opportunities for advancement. Another commenter recommends that the FCC credit small market stations for part-time employees.

45. Joint Commenters⁶⁴ urge the FCC to identify and exclude all race neutral factors such as market size, station size, format and pay, as defenses for noncompliance.

46. Part-time. Many commenters state that the requirement for documentation of part-time hires should be eliminated. Some commenters propose that the FCC consider, if submitted by the licensee, a record of part-time minority employment in mitigation of minor deficiencies in its full-time employment profile.

47. Some commenters advocate continuing the requirement for part-time efforts documentation. The National Hispanic Media Coalition (NHMC) also urges the Commission to apply processing guidelines to part-time employees because more and more licensees choose to downsize and economize by hiring part-time employees. The National Association of Broadcasters (NAB) argues that such a suggestion is largely unworkable because part-time hires are generally filled on a short-term basis or with very little notice and, therefore, it would be counterproductive and a disincentive to hiring part-time employees.

48. Joint Commenters approve of a licensee's using part-time hires to mitigate its EEO record only if the fact that a licensee fails to hire even part-time minority employees operates in favor of designation for hearing. Joint Commenters also propose that thorough documentation of the legitimacy of part-time employees should be required.

49. Joint Recruitment Efforts. Many commenters agree that joint recruitment efforts, where groups of broadcasters or broadcast associations seek out women and minority applicants, should be encouraged. NAB recommends giving broadcasters more credit for using joint recruitment efforts and giving credit for job fairs, unsolicited resumes and participation in seminars such as those conducted by the NAB's Department of Human Resource Development and Employment Clearinghouse. Other commenters propose that, if a licensee obtains minority and/or female referrals from a state

⁶⁴ See Appendix A, Number 39.

broadcast association or through other cooperative efforts, such contact should equal individual contact with minority and/or female sources. The Texas Association of Broadcasters suggests that it would be helpful if the FCC could identify on an ongoing basis the national organizations actually able to refer minority applicants. It also proposes that the FCC encourage "referrals of minorities by stations in states and cities with large minority populations to similar markets in other states where there are fewer minorities in the general populace."

50. Joint Commenters cite two dangers if the FCC allows licensees unlimited use of joint recruitment efforts. First, they worry that licensees may claim that the failure of joint efforts to produce results immunizes them from EEO scrutiny. Second, they are concerned that such a practice would prevent individual licensees from developing name recognition and reputation in the community as equal opportunity employers. They suggest that participation in joint recruitment efforts should be encouraged to supplement but not substitute for local recruitment sources.

51. Administrative Burdens. Many commenters express the view that administrative burdens on broadcasters should be reduced and present several options for accomplishing this task. One suggestion is that the FCC should coordinate its EEO enforcement determinations and reporting forms with various other federal and state agencies dealing with EEO matters. Another commenter suggests alleviating paperwork if a station's hiring record meets the processing guidelines. If a station's hiring record failed to meet the guidelines, then the commenter suggests that the licensee should be allowed to document efforts and explain its failure. NHMC proposes that the FCC require licensees to list only the minority recruitment sources that produced minority referrals in their Form 396. Several commenters express concern that administrative burdens are particularly difficult for small staff and/or market stations. Joint Commenters argue that all of the administrative burdens imposed on licensees are so slight as to be meaningless.

52. Renewal Applications. The Commission sought comment on the following proposed changes to Form 396. Noting the hiring and recruiting data requested in Form 396, the Commission queried whether the form should be revised to request more detailed information for the renewal year similar to data requested in an inquiry letter. Noting that the form does not ask that broadcasters distinguish between full-time and part-time hires in their responses, the Commission queried if the renewal application should be revised either to request information only for full-time hires or to request that the information be divided by full-time and part-time hires. In addition, it asked if it should monitor efforts by broadcasters to promote part-time employees to full-time positions.

53. The Commission received a variety of responses to the proposed changes. Many commenters are against requiring additional information on Form 396. Conversely, NHMC states that the FCC should require a summary of recruiting, hiring and promotion efforts for the whole license term. Joint Commenters argue that the Form 396 should be revised to include a breakdown of the race and sex of all applicants referred by particular sources, hires and promotions; require proof that affirmative recruitment efforts were undertaken for each job vacancy; and elicit the kind of contact made with recruitment sources. They also propose that Form 396 as well as Form 395 be revised to require reports from local combinations of three or four co-owned stations. NAB opposes Joint Commenters proposal and asserts that the FCC should simplify and clarify its procedures.

54. Regarding full and part-time hires, some commenters argue that Form 396 should request information only concerning full-time hires but that licensees should have the option of submitting information on part-time hires as a means of getting extra credit for minority and female recruiting and promoting efforts that produce part-time applicants, hires and promotions. Another commenter states that the FCC should continue to include part-time hires if it will give credit for part-time hires in assessing compliance.

55. Annual Employment Reports. The Commission invited comment in the NOI on whether the Broadcast Station Annual Employment Reports should be revised to require that employment information be collected for the same 15 job categories as is now required for cable operators and MVPDs pursuant to the 1992 Cable Act. The Commission also asked what the costs and benefits of the above-cited revisions would be. Some commenters reject the notion of expanding the job categories in the Form 395-B. One commenter states that it does not wish to encourage more time spent on already heavy government applied workloads yet believes that all communications companies ought to operate under the same rules, including supplying the same EEO information. Joint Commenters approve the idea of expansion but argue that the six new categories should be different from those used for cable and should include Corporate Officers, General Manager, General Sales Manager, Senior Producer, Chief Technician, and Comptroller. It also asserts that the Broadcast Annual Employment Report should request information regarding promotions broken down by race and part-time/full-time status. Several commenters propose that the FCC require broadcasters to submit a narrative statement with their Form 395 that details their EEO efforts and the results of those efforts.

56. Mid-term Review. Joint Commenters criticize the FCC's present method of analyzing a television station's EEO record at mid-term. They assert that Congress intended for the FCC to review at mid-term employment practices which, according to

§ 73.2080(b) of the Commission's Rules, 47 C.F.R. § 73.2080(b), include recruitment efforts, promotions, procedures, numbers of hires and promotions as well as efforts undertaken to implement the licensee's EEO program. Joint Commenters propose that forfeitures be assessed at mid-term, that the results of a mid-term review be taken into account at renewal time and that the Commission extend mid-term review to radio.

57. Processing Guidelines. Several commenters propose that the present processing guidelines of 50% parity with the labor force be increased. Joint Commenters urge that the processing guidelines be increased to 100% of parity.⁶⁵ NHMC proposes that the processing guidelines be increased to 60% of parity on January 1, 1995, 70% of parity in 1996 and 80% of parity in 1997. NAB argues that raising parity benchmarks at this time is unwarranted but, if the FCC decides to do so, the NAB recommends that it be done gradually and prospectively, applicable beginning with the licensee's next renewal cycle.

58. EEO Policy Statement. In response to the NOI, the Commission received many comments regarding the EEO Policy Statement, supra. The issues discussed in the comments were, for the most part, duplicative of comments made by parties in their petitions for reconsideration to the Policy Statement. Many of the commenters who responded to the Policy Statement and NOI stated that the matters raised in the Policy Statement should be considered in a full notice and comment proceeding. In addition, some commenters requested that the FCC clarify parts of the Policy Statement including: the meaning of the term, "adequate pool"; statistical benchmarks; and the extent to which the EEO emphasis now is on efforts or on a specific percentage of women and minorities that must be in each applicant pool.

59. Penalties. Several commenters discuss present and potential penalties to impose on broadcasters. Some commenters express their approval of a "Three Strikes and You're Out" proposal. Under this proposal, a licensee would receive a warning and reporting conditions for a first EEO violation, a fine and a short term renewal for the second violation and a large fine or designation for hearing for a third EEO violation. One commenter recommends that the warning also include suggestions for improving a licensee's EEO program. Joint Commenters oppose the "Three Strikes" proposal.

60. One commenter suggests creating a system of special recognition for stations which have employed innovative approaches for recruitment. It also urges the FCC not to

⁶⁵ Joint Commenters also suggest that the FCC increase the processing guidelines for cable operators and other entities covered by our EEO rules to 100% of parity.

sanction the buyer of a station for EEO violations by the seller of a station. NAB states that it supports this request. Joint Commenters argue that the FCC needs to impose forfeitures more frequently.

B. Cable

61. In the NOI, the Commission sought comment regarding the Commission's cable EEO rules, policies and enforcement. Comments submitted on these topics by cable operators, private citizens, and citizens groups indicate that there are a number of areas of public concern.

62. Other Agencies/Labor Force. Time Warner Cable suggests that cable systems or companies performing government contracts in excess of \$50,000 should be required to comply only with the FCC's EEO rules and not with Executive Order 11246⁶⁶ (administered by the Office of Federal Contract Compliance Program). It also states that there should be a more realistic formulation of the applicable labor force than the MSA and urges the Commission to utilize data from the municipalities served by the cable unit instead of the MSA.

63. Notice. The Commission sought comment on what ways it could better enable cable operators and MVPDs to meet their EEO goals in light of changes to the cable EEO rules based on the 1992 Cable Act. Inasmuch as the 1992 Cable Act expanded the scope of EEO enforcement to the MVPDs, the Commission specifically sought suggestions as to how we might better inform cable operators, MVPDs and the public about the EEO requirements.

64. Bell Atlantic, whose programming affiliate is an MVPD, states that the FCC's present reporting system will have little meaning when applied to many other multi-channel programmers. It urges the FCC to be flexible in applying its rules to take into account the differences between MVPDs and cable operators.

65. Joint Commenters assert that the FCC should require video dialtone providers and other MVPDs to obtain written acknowledgment of their EEO obligations from each provider that uses their common carrier facilities, that a copy of that acknowledgment should go to the FCC and that this action will enable the FCC to compile a list of program providers. Joint Commenters state that the FCC has granted some programming privileges to the telephone industry and argues that, to the extent that such programming is marketed directly to the consumers, the FCC should require local exchange carriers (LECs) to comply with EEO provisions of Cable Act. They recommend that the FCC issue a clarifying statement providing examples of kinds

⁶⁶ 41 C.F.R. § 60-1.7.

of programming in which LEC's are permitted to have an ownership interest.

66. Annual Employment Report. Pursuant to the 1992 Cable Act, the Commission modified Form 395-A to require cable operators to provide the gender, race and national origin of each employee falling into one of the nine original and six new job categories. The Commission sought suggestions on any additional information which should be collected. Cable Television Human Resources Association suggests that, with the advent of restructuring and consolidation in the cable industry, job titles such as district manager, general manager and system manager are disappearing from company organization charts. It argues that the Commission should redefine the general manager subcategory to include Vice-President of Operations/Customer Service, Vice-President of Corporate Affairs and Programming, Vice-President of Management Information Services and others.

67. Joint Commenters argue that the Form 395-A and-M should be revised to more accurately evaluate an operator's EEO efforts. They suggest that the second question in Section III be revised to ask how many and what kinds of organizations the cable operator has contacted when job vacancies occur. Joint Commenters argue that the SIS should involve a more thorough investigation of supporting documentation. They recommend that the unit be required to file documentation in such areas as: reliance on minority and other referral agencies as part of the recruitment effort; and evaluation of employee profile and job turnover against the availability of women and minorities in the labor market.

C. Emerging Technologies

68. NOI. Finally, in the NOI, the Commission noted that there are a significant number of emerging technologies in the field of communications as well as a convergence of existing communication technologies. The Commission asked if our EEO policies should be expanded with respect to entities other than broadcasters, cable operators and MVPDs. For example, it asked if the EEO policies should be expanded to include common carrier technologies, particularly those that provide services that compete with broadcast and cable services (other than MVPDs already covered by the 1992 Cable Act).

69. Expanding Coverage. Some commenters argue that the Commission should not increase its coverage of its EEO rules. U.S. West Communications, Inc. (U.S. West) argues that EEO policies should not be expanded to include LEC video dialtone providers. U.S. West adds that if and when LECs provide video programming in the future, they would become subject to the Act's EEO requirements. Joint Commenters argue that video dialtone providers are covered under our present rules. In addition,

Joint Commenters argue that the FCC should affirm that common carriers that have obtained a judicially granted right to provide cable television service are subject to Section 634 of the Cable Act, 47 U.S.C. § 554.

70. Ameritech Operating Companies, which owns telephone companies in five states, argues that the determinative factor in deciding whether or not the FCC should extend its cable and broadcast industry EEO/Affirmative Action (AA) regulations should not be the similarity of current or potential technologies but whether the employer in question is already regulated for EEO/AA purposes.

71. A group of 32 commenters individually filed identical comments in which they request that the EEO rules be extended to Regional Bell Operating Companies (RBOCs) when legislation is passed allowing RBOCs and cable companies cross ownership privileges. They urge the FCC to require all common carriers and smaller companies to be required to fill out Form 395-A, to scrutinize these reports and to act accordingly.

72. Joint Commenters believe that the EEO provisions of the Communications Act should apply to all carriers regulated by Title II of the Communications Act, that are now required only to adopt an EEO program and submit an Annual Employment Report. They assert, considering the convergence of technology that is taking place, that the same EEO requirements should apply to all competitors. They argue that the basis for FCC EEO jurisdiction of these entities is the nexus between content based services and technologies and that, with essential services such as newspapers and books being increasingly accessed by means of sophisticated digitized multi-media technology, common carriers are no longer content neutral. They argue that the policies of diversity once reserved for content based services must be applied to services that will control access to information in digitized format because by controlling this access, these services significantly determine whether broad and diverse segments of society will receive advanced communications services. Joint Commenters maintain that revised EEO oversight in the common carrier field will greatly advance the goal of minority and female representation in upper-management. U.S. West rejects Joint Commenters' arguments.

73. Bell Atlantic states that it would not oppose extending broadcast and cable EEO rules to common carriers if the FCC determines that there is some public interest reason for doing so. It urges that any action by the FCC must eliminate redundancies with other agencies; harmonize differences in our own sets of rules; take into account the different structure of common carriers; and apply equally to all providers, including interexchange carriers, and competitive access providers, in addition to local exchange carriers, cable operators and

broadcasters.

74. The FCC has not had sufficient time to develop fully its positions with regard to these issues. Accordingly, the Commission believes that more time should be devoted to the analysis of these issues in order to more completely examine the effect of any proposed changes.

VI. OBSERVATIONS

75. Congress required that the Commission review and obtain public comment on the effect and operation of amendments regarding EEO that were contained in the 1992 Cable Act. In addition, Congress directed the Commission to further consider the effectiveness of its other EEO procedures, regulations and policies, especially with respect to the Congressional policy favoring increased employment opportunity for women and minorities in management positions.

76. Our review reveals that our present policies have been and are effective in promoting equal employment opportunities in the broadcast and cable industries. However, more progress can and should be achieved. Accordingly, we should attempt to further improve our policies in these areas. Our review also indicates that, as demonstrated below, it is imperative that we undertake a broad analysis of our EEO policies to ensure effective EEO enforcement in all communication areas in the future.

77. To improve and refine the current EEO policies and procedures, the FCC has further demonstrated its commitment to EEO by establishing a new Office of Communications Business Opportunities (OCBO), which has as part of its mission the coordination and oversight of EEO practices adopted by the FCC. In addition to OCBO's role of supporting the creation and expansion of small, minority and women-owned communications businesses, OCBO will be responsible for coordinating Commission-wide EEO enforcement activities; making policy recommendations to the Commission regarding EEO matters; coordinating with other government agencies which have EEO responsibilities; organizing seminars and conferences on EEO issues; conducting research on EEO issues; promoting employment opportunities for minorities and women within the communications industry; and conducting long range planning activities in the area of EEO. A new Director, Anthony Williams, and Deputy Director, Catherine J. Kissée-Sandoval, with experience in these matters and with existing relationships with minority and female groups, have recently been appointed to head OCBO. They and their staff are currently developing an administrative structure to better assist the Commission in the review of EEO issues, many of which are highlighted in this report.

A. Current Policies In Broadcasting and Cable

78. As noted above, the results of our review of the Commission's EEO policies reveal that the Commission's EEO efforts-based policy has been effective in ensuring the compliance of the broadcast and cable industries with our EEO rules. Further, the policy has been effective in increasing the employment of minorities and women in overall and upper-level positions, and individual upper-level job categories. As noted supra, minorities and women in the broadcast and cable industries in the referenced categories increased from 1986 to 1993. In almost every category, particularly in the upper-level categories, the increase outpaced the 1.1% growth of women and the 2.1% growth of minorities in the overall national workforce.⁶⁷ In the broadcast Officials and Managers category, women and minorities increased by 3.9% and 2.2%, respectively. In the cable Officials and Managers category, women and minorities increased by 2.6% and 3.9%, respectively. Overall increases in minority and female employment in the broadcast industry occurred despite a significant decrease in overall employment from 1986 to 1993. In addition, we note that approximately 96% of the broadcast renewal applications reviewed are granted without reporting conditions and/or sanctions, and that over 90% of cable units are certified each year. In light of the above, it would appear that our policies have been effective insofar as these statistics provide an indication of overall industry progress.

79. Despite the gains achieved between 1986 and 1993, percentages of women and minorities in the broadcast industry in 1993, as well as women in the cable industry, remained below the comparable figures for the 1993 overall national workforce. Moreover, the Commission's primary focus in determining EEO compliance is on an individual licensee's overall effort to "establish, maintain, and carry out a positive and continuing program of specific practices designed to ensure equal opportunity in every aspect of station employment policy and practices."⁶⁸ Thus, our focus is on the extent to which licensees seek out and recruit women and minorities whenever job vacancies exist at stations and systems in local markets. In this regard, there continues to be evidence in cases in which the Commission sanctions licensees that women and minorities are still not recruited for a significant number of positions. In fact, despite our requirements, in many of these cases, for which we have issued sanctions, positions were filled without any

⁶⁷ This growth may be attributable to a dearth of minority and female employees in the past.

⁶⁸ 47 C.F.R. Section 73.2080.

recruitment having taken place.” Given the foregoing, we believe that a continuing need exists for EEO enforcement in the communications industry.

B. NOI Comments

80. Broadcast. We believe that a legitimate concern was raised by commenters, who argue that market and/or staff size prevents stations from attracting and retaining minority employees. Thus, we may consider such factors as population and staff size as well as the percentage of minorities in the labor force, as appropriate areas to examine more fully in the future. In particular, we will want to explore how such changes can bring needed relief consistent with a viable EEO program.

81. The decision of whether or not to include part-time hires in our analysis may be an important issue which needs further study because the total number of employees, whether full-time or part-time, may play an important role in assessing an entity's overall employment profile.

82. We agree with commenters who argue that in many instances, the use of joint recruitment efforts should be encouraged, particularly where such recruitment may provide a comprehensive method of attracting qualified minorities and females. In the future, we will explore the extent and type of such activities and how the Commission can play a more positive role in encouraging such activities.

83. Regarding relief from administrative burdens, we believe

“ Applications of KTEM Radio, Inc. For Renewal of Licenses of Stations KTEM/KPLE(FM), Temple, Texas, 9 FCC Rcd 836 (1994) (failed to recruit for 23 of 35 positions); Applications of Dennis Elam, Trustee For Bakcor Broadcasting, Inc., Debtor, For Renewal of Licenses of Stations KMND/KNFM(FM) Midland, Texas, 9 FCC Rcd 879 (1994) (failed to recruit for 19 of 29 positions); Applications of Pinnacle Communications, Inc. For Renewal of Licenses of Stations KTMS/KHTY-FM, Santa Barbara, California, 9 FCC Rcd 894 (1994) (failed to recruit for 37 of 56 positions); Applications of Buckley Broadcasting Corporation For Renewal of Licenses of Stations WSEN(AM)/WSEN-FM, Baldwinsville, New York, 9 FCC Rcd 2099 (1994) (failed to recruit for 18 of 27 positions); Applications of Historic Hudson Valley Radio, Inc. For Renewal of Licenses of WGHO(AM)/WBPM(FM), Kingston, New York, 9 FCC Rcd 2132 (1994) (failed to recruit for 23 of 35 positions); Applications of Midland Broadcasters, Inc. For Renewal of Licenses of Stations WIBW(AM)/WIBW-FM, Topeka, Kansas, 9 FCC Rcd 2091 (1994) (failed to recruit for 15 of 22 positions); Lutheran Church, supra (failed to recruit for 21 of 35 positions) (designated for hearing).

that the technological advances will lend themselves to a more "on-line approach" to our various filing requirements. However, we note that further investigation of this area is warranted in order to fully comprehend the extent of such administrative burdens and to shed light on some of the more innovative ways that the Commission can streamline its filing requirements.

84. Regarding proposed changes to renewal applications (Form 396) and annual employment reports (Form 395-B), we believe that further investigation of this topic is warranted.⁷⁰

85. We find that requests that we use a different method of analyzing a television station's EEO record at mid-term warrant thorough review in order to allow us to make an appropriate assessment of our current method. As such, we also believe that a more in-depth analysis of our EEO requirements in this regard, is warranted given the large number of comments received relating to it and the ramifications of the USTA decision discussed at paragraph 19, supra.

86. Cable. We find that the suggestion to use labor force data from municipalities served by a cable unit instead of data from the unit's MSA when analyzing the employment records of cable entities may be reasonable in some instances. However, we believe it is necessary to study this issue further in order to examine the effects of such an analysis using labor force data from municipalities and to develop uniform guidelines. We also believe that an enhanced review of how we might improve notification of cable operators, MVPDs and the public concerning various EEO requirements is appropriate. In addition, because annual employment reports serve as our primary tool for monitoring EEO compliance, we perceive the need to re-examine the effectiveness of our forms and to determine if we need to revise them accordingly.

87. We direct the staff to determine and recommend to us the appropriate procedural vehicle for addressing all of the matters discussed in paragraphs 80 through 86, supra.

C. Long-Term EEO Monitoring of the Overall Telecommunications Industry

88. Our review of our current EEO policies and comments received in response to the NOI, as well as our awareness of the ongoing communications revolution, require us to institute a more extensive and far-reaching review of our equal employment opportunities policies for the future. Our aim is to adapt those policies, which provide a solid base upon which to build, to the telecommunications marketplace and workplace of the Twenty-First

⁷⁰

See supra n.34.

Century. We direct the staff to determine and recommend the best methods for addressing the issues discussed below.

89. The telecommunications arena in the Twenty-First Century will be remarkably different from that of the late 1960's, when we began EEO enforcement, and even from that which exists today. In the late 1960's, communications technologies that were widely available to the public included mainly radio, television, and telephone services. Today, we have an integrated information highway, comprising a network of communications technologies that includes: telephone services that reach 93.9% of American homes;⁷¹ cable systems that pass more than 90% of American homes; broadcast television and radio stations that reach virtually 100% of Americans; a cellular telephone system that covers most of the country; and satellite video distribution services.

90. Moreover, we are on the brink of a huge and dramatic shift in our telecommunications infrastructure.⁷² In the next decade, the technological convergence of our communications delivery systems will profoundly change our modes of communication, the communications marketplace, and the telecommunications workplace. The current information and communications delivery systems are on the verge of converting to digital technology. In communicating via digitized means, voice, video, and data services merge so that satellites may provide cable television or mobile telephone service, telephone systems may deliver cable television services and coaxial cable can be used to provide telephone services. In traditional mass media areas like broadcasting, new ways of using the spectrum are being developed. New hybrid services are also emerging that will deliver programming as well as data and voice services.

91. As we move into the twenty-first century, we must adapt our EEO policies so that the goals of EEO will continue to be met in the context of what we expect to be a vastly different telecommunications system. Although our EEO policies now apply to multichannel video programming distributors, thus covering some new technologies, the current EEO enforcement and regulatory structure otherwise focuses mainly on broadcasters and cable

⁷¹ Alexander Belinfante, "Telephone Subscribership in the United States," Industry Analysis Division, Common Carrier Bureau, FCC, August 1994, p.6.

⁷² For an overview of the future of telecommunications, see Gary M. Epstein, "The Future of Telecommunications," Practising Law Institute, 377 Telecommunications Policy and Regulation 127 (1993).

system operators.⁷³ A fundamental question is whether we should expand the focus of our EEO policies to include new and emerging communications technologies and industries.

92. Expansion of our EEO policies may be warranted in order to achieve regulatory parity and fairness in the enforcement of the Commission's EEO rules. Such parity may be justified given the convergence of telecommunications technologies, which increasingly will subordinate the importance of the means of delivery of telecommunications services to the actual technologies and services provided to the public. Further, in light of technological convergence, imposing separate and unique EEO requirements on different telecommunications services may no longer be warranted.

93. Broadening our EEO policies could further the national goal of promoting participation by women and minorities in the design and deployment of advanced telecommunications services and technologies and fostering nationwide access at reasonable rates to these advanced telecommunications technologies.⁷⁴ The expansion of our EEO rules and policies could foster this objective since it will help ensure that minority and female viewpoints are represented within telecommunications entities when planning decisions are made as to how and when consumers will have access to the new technologies and services.⁷⁵

⁷³ As stated previously, the FCC applies general equal employment opportunity guidelines to common carrier licensees and permittees and has adopted annual reporting requirements, but does not impose equivalent EEO requirements to those imposed on broadcasters and cable operators. See p. 23, *supra*.

⁷⁴ For example, Congress directed the Commission to promote economic opportunity for businesses owned by minorities and women in legislation enabling the Commission to conduct competitive bidding for new spectrum-based services, including common carrier services. See 47 U.S.C. § 309(j)(4)(C).

⁷⁵ We note that, in finding that the national policy against discrimination is applicable to common carriers and proposing to adopt common carrier EEO rules, the Commission noted that such carriers must provide nondiscriminatory service and that "a company which follows discriminatory employment practices would find it difficult to provide nondiscriminatory service. Both because of the special position granted communications common carriers by the government, and the relationship between service to the public and the carriers' employment practices, it would be intolerable to countenance discriminatory employment practices." Notice of Proposed Rulemaking, Docket No. 18742, 34 Fed. Reg. 19,200, 19,201 (Dec. 4, 1969).

94. Further, the President's Council of Economic Advisors has projected growth in employment in the telecommunications and information sector from 3.6 million workers in 1993 to more than 4.5 million workers in 2003.⁷⁶ To the extent that this expansion results from the growth of new telecommunications services, it reinforces the need to reexamine our EEO policies to ensure that women and minorities are full participants in the overall telecommunications sector, especially in management positions, which are often stepping stones to ownership.

95. As we deal with issues arising from technological convergence and the communications revolution, we intend to analyze whether we should redesign and redirect our EEO policies to reflect the communications revolution and bring those policies into the Twenty-First Century. We intend to enter into a dialogue with public interest groups, consumer groups, trade associations, think tanks, civil rights groups, labor groups, academics, other government agencies, and the communications industry. We expect that the OCBO will play a primary role in this review and analysis.

96. To the extent lack of training is a factor, we may wish to encourage and give credit for internships and training programs as a means of encouraging minority and female entry into employment in communications. We hope that the analysis we initiate can serve as a stimulus for industry-wide meetings among telecommunications entities and trade associations to combine their efforts to develop and maintain such industry-wide or company-specific internship and training programs for minorities and females. Such entities and associations are in the best position to determine the kinds of skills needed to enter and advance in employment in their industries.

97. Moreover, we will inform our review and analysis with current population and workforce data, as well as projections about the future. We will obtain statistical and economic data from a wide variety of sources, including governmental agencies, such as the Departments of Labor and Commerce, and the Census Bureau, as a base on which to build the new regulatory EEO structure.

98. As we consider the extent of this agency's EEO authority with respect to new and emerging technologies, we must consider certain fundamental issues. First, we must examine our statutory authority in this area and determine whether additional authority is required. Second, we must study whether the policy justifications that provide the underpinnings for our broadcast

⁷⁶ Executive Office of the President, Council of Economic Advisors, Economic Benefits of the Administration's Legislative Proposal For Telecommunications, June 14, 1994, p.9.

and cable EEO regulations also apply to these new technologies. We expect to solicit views and data in response to the following questions, among others, before we begin the process of transforming our EEO regulatory structure:

1. What are the projected changes in the composition of the workforce and in the nature of the workplace? Do these changes have any implications for our future EEO policies? What measures are necessary to ensure that any new EEO rules adopted reflect the changing workforce?

2. What changes in the economy are projected, and what are the implications of these changes for our EEO regulatory structure?

3. In an increasingly white collar, highly technical telecommunications field, what measures might be taken to ensure that the workforce pool of minorities and women is more representative?

4. Should we broaden our EEO policies to include all telecommunications entities that transmit programming services, including common carriers? What would the legal and policy basis be for such an expansion?

5. If we broaden EEO enforcement, should the new regulatory scheme be uniform or should it reflect any structural or other differences in the various telecommunications entities and services? For example, should we retain our uniform job categories or define our job categories differently, depending on the communications service at issue, to reflect differences in the types of jobs found in those services?

6. Should we broaden our EEO policies to address new concerns, such as glass ceilings in telecommunications management, and, if so, how could we adopt regulatory structures to do so?

7. How can we tailor any new policies so as to advance our goals without being unduly intrusive or burdensome on growing industries?

8. Can we employ new technologies to streamline our EEO reporting requirements and minimize any burdens imposed?

9. Should we develop new structures to coordinate with other governmental agencies responsible for EEO enforcement, such as the Department of Labor and the Equal Employment Opportunity Commission?

VII. CONCLUSION

99. In conclusion, review of the Commission's EEO enforcement policies and rules shows that they have been and are successful in promoting equal employment opportunities in the broadcast and cable industries. However, our review also indicates that a continuing need exists for EEO enforcement in the communications industry. In addition, as a result of our review, we intend to take appropriate steps in the near future to improve our existing policies in broadcasting and cable, while at the same time initiating a broad analysis with respect to how our EEO policies might be designed in the long-term to apply to all communications industries.

VIII. ORDERING CLAUSE

100. IT IS ORDERED that the Secretary shall send copies of this Report to the appropriate committees and subcommittees of the United States House of Representatives and the United States Senate.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
William F. Caton
Acting Secretary

**APPENDIX A
LIST OF COMMENTERS**

Comments

1. American Women in Radio and Television
2. Ameritech Operating Companies
3. Barnstable Broadcasting, Inc.
4. Bell Atlantic
5. Betap Broadcasting, Inc.
6. Bresson-Hafler Media Group
7. Bulmer Communications of Findlay, Inc., Bulmer Communications of Logansport, Inc., and Bulmer Communications of Ashtubula, Inc.
8. CBS, Inc.
9. Cable Television Human Resources Association
10. Charles River Broadcasting
11. Curators of University of Missouri
12. DWS, Inc.
13. Dow, Lohnes, and Albertson
14. Earshot Broadcasting, Inc.
15. Emmis Broadcasting Corporation
16. Employees of Regional Bell Operating Companies⁷⁷
17. Fairfield Communications, Inc.
18. First Greenville Corporation
19. Foundation for Minority Interests in Media
20. Gateway Communications, Inc.
21. Gilbert Group, Inc.
22. Goetz Broadcasting Corporation
23. Grants Pass Broadcasting
24. Greater Media, Inc.
25. Group M Communications, Inc.
26. Guyann Corporation
27. Ham Broadcasting Company, Inc.
28. Marvin Hill
29. Hopkins County Broadcasting Corporation
30. Houston Christian Broadcasters, Inc.
31. Joint Comments of 23 Named State Broadcast Associations
32. K/A Korp Communications
33. KPAN Broadcasters
34. KTEM Radio, Inc. and Walker County Commons, Inc.
35. Mark Kiester
36. La Paz Broadcasting, Inc.
37. Lake Cities Broadcasting
38. Alan Lang
39. League of United Latin American Citizens, Minority Media and Telecommunications Council, National Association For the Advancement of Colored People, National Bar Association and The Office of Communications of The United Church of Christ (Joint Commenters)

⁷⁷ Thirty-two employees of Regional Bell Operating Companies filing individual comments with identical text.

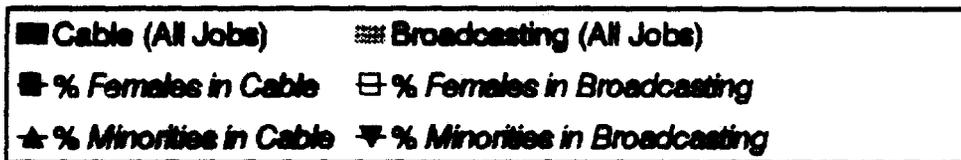
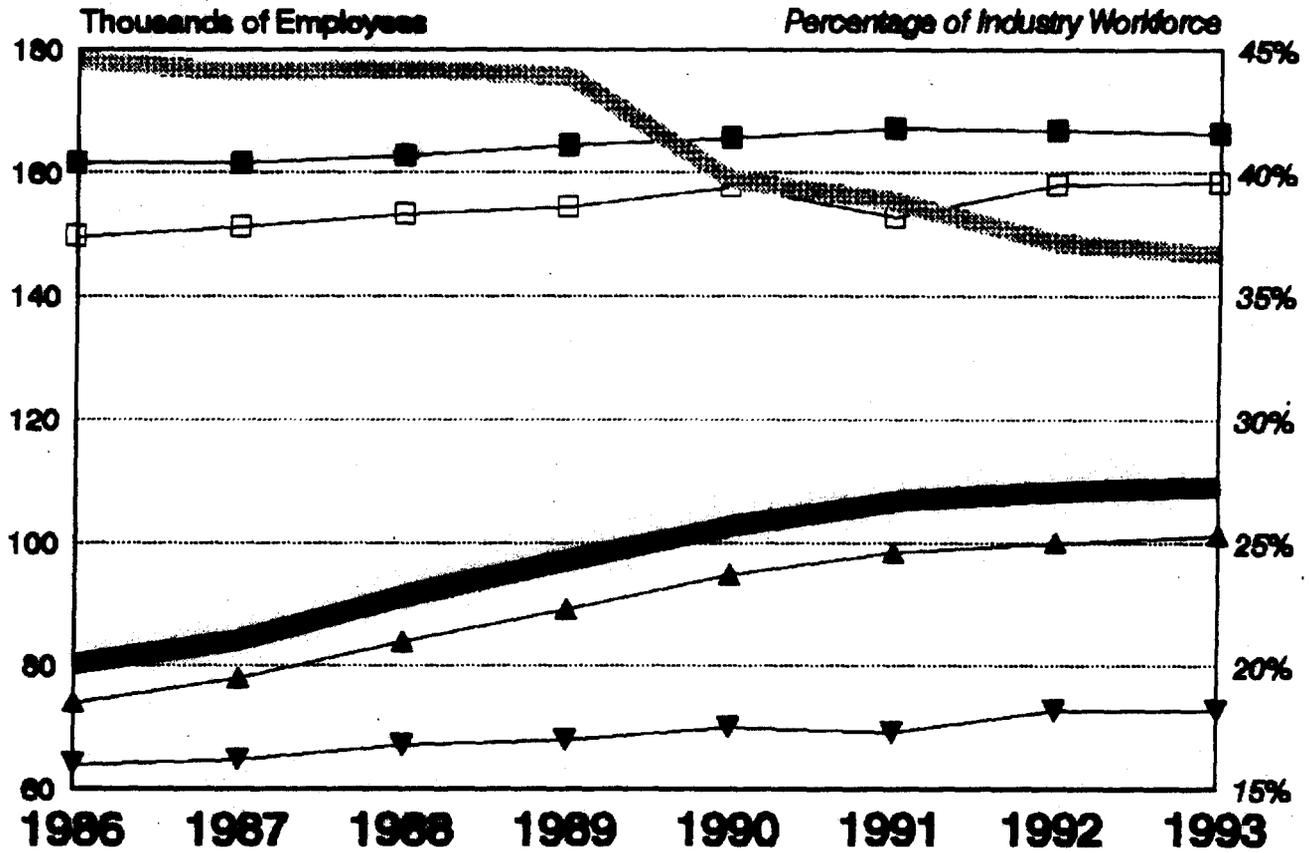
40. Licensees of One Hundred Broadcast Stations⁷⁸
41. William McElveen
42. Marantha, Inc.
43. Middle Georgia Broadcasting, Inc.
44. Midwest Radio Corporation
45. Mountain Lake Public Broadcasting
46. National Association of Broadcasters
47. National Hispanic Media Coalition
48. Nebraska Rural Radio Association
49. Ocean Drive Communications, Inc.
50. Quantum Broadcasting Corporation
51. Radio Chattanooga, Inc.
52. C. Davis Rankin
53. Russ Oasis
54. Ruston Broadcasting Company, Inc.
55. Raymond Saadi
56. South Carolina Broadcasters Association
57. Gwenn Spikes
58. Rick Staeb
59. Cyril Statt
60. Marvin Strauzer
61. Sunburst II, Inc., Louisiana Media Interests, Inc., and My Country, Inc.
62. William Taylor
63. Texas Association of Broadcasters
64. Lawrence Tighe, Jr.
65. Time Warner Cable
66. Tom S. Whitehead, Inc.
67. Tribune Broadcasting Company
68. Tri-Cities Radio Corporation
69. Twin Cities Broadcasting Corporation
70. United Cerebral Palsy Association
71. U.S. West Communications, Inc.
72. WHTG, Inc.
73. WRNO Worldwide
74. Waller Broadcasting, Inc.
75. Darnell Washington
76. World Radio Network

Reply Comments

1. Ameritech Telecasting, Inc.
2. League of United Latin American Citizens, et al.
3. National Association of Broadcasters
4. National Public Radio
5. New City Communications, Inc.
6. Press Broadcasting Company, Inc.
7. U.S. West Communications, Inc.

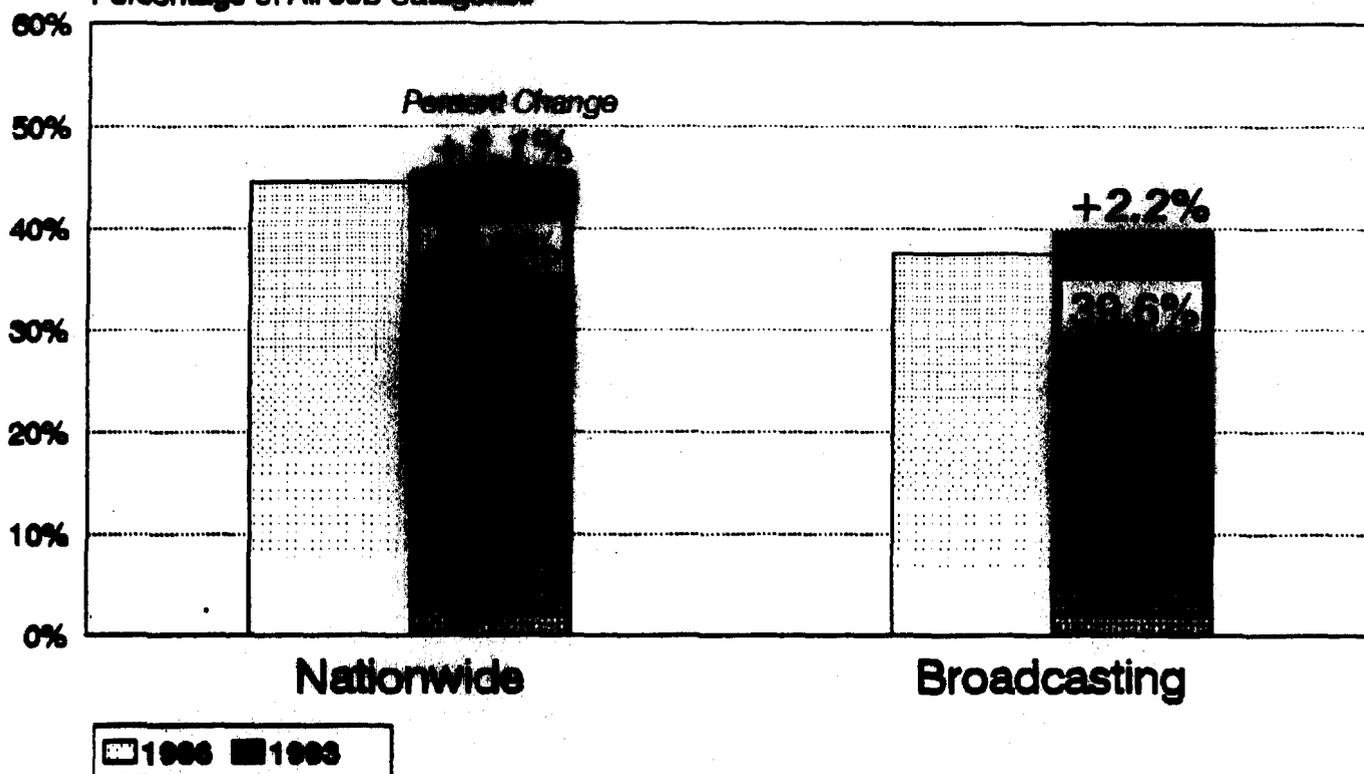
⁷⁸ Originally entitled Comments of Licensees of 98 Broadcast Stations but subsequent filing added two more stations to pleading.

Industry Employment 1986 - 1993



Females in Workforce

Percentage of All Job Categories



Minorities in Workforce

Percentage of All Job Categories

