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March 25, 1997

Hon. William Caton
Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

MAR 25 1997

Dear Mr. Caton:

RE: MM Docket No. 96-197 (Newspaper/Radio Crossownership)
MM Docket Nos. 91-221 and 87-8 (TV Multple Ownership)
MM Docket Nos. 94-150, 92-51 and 87-154 (Attribution)

And Referencing:

MM Docket Nos. 94-149 and 91-140 (Minority Ownership)

The Minority Media and Telecommunications Council respectfully submits this letter as a supplemental reply comment. Leave to accept this letter two working days out of time is respectfully requested. 1/

The multiple ownership and attribution dockets were originally coupled with the minority ownership dockets. The proceedings were joined together because the proposals therein were closely interconnected.

Among the leading minority ownership incentives under consideration was an incubator program, conceived during the Sikes administration. That program would have afforded more liberal waivers of multiple ownership limitations, and more liberal treatment of attribution, to companies which incubated minority media owners in markets of similar sizes to those for which a multiple ownership waiver or attribution liberalization was sought. The minority ownership incubator proposals drew widespread industry support and unanimous public interest and minority community support.

1/ The proposals contained in this letter were approved at MMTC's Quarterly Board of Directors Meeting, held March 21, 1997 -- the day Reply Comments were due.

Unfortunately, after Adarand Constructors v. Peña, 115 S.Ct. 2097 (1995), the minority ownership dockets were decoupled from the multiple ownership and attribution dockets in anticipation of the need to conduct a disparity study to bolster the constitutional rationale for race-specific ownership initiatives ("Disparity Study"). Regrettably, that study has not yet begun, and now the multiple ownership and attribution dockets are about to close.

It would be unfortunate, as a consequence of this quirk of scheduling, if the Commission adopts proposals in the multiple ownership and attribution dockets which would render it impossible later to develop incentives useful as inducements to incubate minority owners or to effectuate the financing or sales of stations to minorities.

Commission action to stimulate minority ownership can wait no longer. Lacking the tax certificate policy, with comparative hearings frozen, and with local and national concentration advancing at a dramatic pace, minority companies have nowhere to grow and are increasingly being forced to sell or fold. Next month, NTIA will release a study which is expected to report the first decline in minority broadcast ownership since records have been maintained. That decline, by our estimation, has been in the range of 15%. At that pace, unless the Commission acts now, there will be no more minority broadcast station ownership by the year 2004.

Ideally, the minority ownership dockets should be recoupled with the multiple ownership and attribution dockets. However, MMTC realizes that an immediate recoupling is impossible because the record developed in the minority ownership rulemaking dockets was closed before the passage of the Telecommunications Act of 1996 (the "1996 Act"). The 1996 Act liberalized the multiple ownership restrictions in several important respects. Thus, the range of possible incentives which could be provided in exchange for, or in recognition of a company's efforts to promote minority ownership is more limited now than before the 1996 Act took effect.

Consequently, MMTC urges the Commission to issue a Further Notice of Proposed Rulemaking in MM Dockets 94-149 and 91-140 ("Further Notice"). The Further Notice should be issued concurrently with the Commission's decisions in the multiple ownership and attribution dockets. The Further Notice should express the Commission's tentative views concerning appropriate incentives, permissible under the 1996 Act, which could be matched with incubation, financing and sale initiatives.

In particular, MMTC suggests that the following incentives (the "MMTC Incentives") might be appropriate. MMTC urges the Commission not to foreclose these incentives by actions in the multiple ownership and attribution dockets which liberalize the relevant rules and waiver policies independently of any minority ownership commitments. The numerical ranges expressed in each of the MMTC Incentives are intended to provide the Commission with flexibility to tailor waivers or attribution relief to the strength of an applicant's minority ownership incubation, financing or sale initiatives.

1. Grandfathering of TV LMA's for an additional one to three years

2. Attribution relief for a second local television station for nonvoting interests representing up to 49% of the equity

3. Decisionally significant factors in awards of TV/Radio one-to-a-market and Radio/Newspaper crossownership waivers.

The Further Notice should manifest that if the Disparity Study finds that the Commission may constitutionally implement race-sensitive ownership initiatives, the Commission's present intention would be:

1. to immediately adopt incubator, financing and sale initiatives, such as those already developed in MM Dockets 94-149 and 91-140, and link them to the MMTC Incentives; and

2. to immediately begin to process requests for relief under the MMTC Incentives, starting with companies which had already implemented incubator, financing and sale initiatives.

In this way, the Commission can encourage progressive, forward thinking companies to voluntarily adopt minority ownership initiatives now.

While the Commission cannot definitively predict the outcome of the Disparity Study or guarantee adoption of the MMTC Incentives, a statement now that the Commission tentatively wishes to adopt the MMTC Incentives, if the Disparity Study so permits, would create a significant and desperately needed stimulus for incubator, financing and sale initiatives for minority ownership.

Respectfully submitted,

David Honig
Executive Director

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/dh