



**Minority Media &
Telecom Council**

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September 17, 2014

Hon. Tom Wheeler
Chairman
Hon. Mignon Clyburn
Hon. Ajit Pai
Hon. Jessica Rosenworcel
Hon. Michael O’Rielly
Commissioners
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: Diversity and EEO in the Tech Sector

Dear Chairman Wheeler and Commissioners:

The Minority Media and Telecommunications Council (MMTC) respectfully requests that the Commission assign its Advisory Committee for Diversity in the Digital Age (Diversity Committee) the task of researching the causes of troubling employment patterns and practices in the technology sector. This task fits right into the jurisdiction of the Committee, whose most recent Charter provides that it shall “provide recommendations to the FCC regarding policies and practices that will further enhance diverse participation in the telecommunications and *related* [emphasis added] industries.”¹

With media and telecom now amounting to 1/6 of our economy, few issues are more vital to telecommunications policy than workforce diversity. As the Commission has learned from regulating EEO in broadcasting, employment opportunities are the key to obtaining the skills and networking contacts necessary if one is to become an owner and decision-maker.² While the

¹ FEDERAL COMMUNICATIONS COMMISSION, CHARTER OF THE FCC’S ADVISORY COMMITTEE ON DIVERSITY FOR COMMUNICATIONS IN THE DIGITAL AGE (2011), *available at* <http://transition.fcc.gov/DiversityFAC/docs/charter-2011.pdf> (last visited Sept. 15, 2014).

² *See Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding*, MM DOCKET NOS. 98-204, 96-16, 13 FCC Rcd 23004 ¶37 (rel. Nov. 20, 1998) (“Work experience in the broadcasting industry permits minorities and women to obtain the skills needed to acquire and run a broadcast station, may help them in becoming aware of ownership opportunities, and may facilitate obtaining capital, as financing sources are generally more willing to work with borrowers that

Commission has not yet decided whether it has, or should ask Congress for, direct regulatory authority over EEO in the high tech industry, it's clear that the industry's abysmal failure to employ African Americans, Hispanics and women detrimentally impacts the FCC's ability to fulfill Congress' commands that the FCC regulate EEO and promote employment and ownership diversity in the industries with which high tech converges – broadcasting, cable, and satellites.³

Industry convergence and stark employment gaps within the technology sector necessitate an investigation by the Diversity Committee, and appropriate follow-through either by the Commission itself, another federal agency,⁴ or a referral to Congress for FCC jurisdictional authority.

The communications industry of the future will be very different from the industry the Commission now regulates under its direct authority. Traditional access points, such as television sets, are no longer primary for younger media consumers.⁵ Today, American video consumers between the ages of 18 and 34 have more than twice the exposure to video programming via their smartphones than TVs.⁶ Further, some 89% of smartphone users and 81% of tablet users

have a track record in the business they seek to own and operate.”); *see also* H.R. Rep. No. 934, 98th Cong., 2d Sess. at 84-85 (1984) (“[A] strong EEO policy is necessary to assure that there are sufficient numbers of minorities and women with professional and management level experience within the cable industry, so that there are significant numbers of minorities and women with the background and training to take advantage of existing and future cable system ownership opportunities.”)

³ 47 U.S.C. §257(a) (envisioning the removal of market entry barriers in the provision and ownership of both telecommunications and information services.).

⁴ *See Memorandum of Understanding Between the Federal Communications Commission and the Equal Employment Opportunity Commission*, 70 FCC2d 2320 (1978) (empowering the Commission to work collaboratively on EEO compliance issues with its sister agency, the EEOC).

⁵ *See, e.g.* Cecilia Kang, *TV is increasingly for old people*, THE WASHINGTON POST (Sept. 5, 2014), *available at* http://www.washingtonpost.com/news/business/wp/2014/09/05/tv-is-increasingly-for-old-people?utm_content=buffer5f8a1&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer (last visited Sept. 15, 2014) (“The median age of a broadcast or cable television viewer during the 2013-2014 TV season was 44.4 years old, a 6 percent increase in age from four years earlier. Audiences for the major broadcast network shows are much older and aging even faster, with a median age of 53.9 years old, up 7 percent from four years ago ... The median age in the U.S. was 37.2, according to the U.S. Census.”).

⁶ DOUNIA TURRILL, NIELSEN, INC., AN ERA OF GROWTH: THE CROSS-PLATFORM REPORT 5 (2013) (Forty-four percent of smartphone multimedia mobile and video users are between the ages of 18 and 34, compared to 21% of TV users), *available at* <http://www.nielsen.com/us/en/insights/reports/2014/an-era-of-growth-the-cross-platform-report.html> (last visited Sept. 15, 2014).

consume video content via apps.⁷ These trends imply the media jobs of the future will look more like technology jobs than traditional TV/radio production, advertising sales, and on-air occupations, in order to meet the demand of aging millennial consumers trained on mobile devices.⁸ This is reflected in Bureau of Labor Statistics data projecting an 11-point gap in job growth through 2022 between computer and mathematical occupations (18%), and arts, design, entertainment, sports, and media occupations *combined* (7.0).⁹

Traditionally, the technology sector has approached this, which it has characterized as a “talent gap”, by pursuing measures to raise the cap on H-1B visas granted to workers from overseas.¹⁰ Some critics have claimed that the effort to raise the cap on H-1B visas is designed to enable some technology companies to avoid hiring older, more expensive, American workers.¹¹ However, policymakers should also consider whether the effort to raise the cap on H-1B visas has been at best premature as long as high tech companies are bypassing recruitment and engagement at colleges and universities with large minority enrollments, such as Historically Black, Hispanic, and Native American institutions in the “fly-over states” far from the Silicon Valley.¹² An inquiry by the Diversity Committee would shed light on the extent to which technology companies recruit on campuses with high minority enrollments, actively mentor minorities for careers in the technology sector, and select diverse candidates who are U.S. citizens or residents.

Indeed, changes to the media industry business model have not translated into a proportionate growth in employment opportunities for minorities (Exhibit A). Over recent months, following the urging of the Reverend Jesse Jackson Sr. and the Rainbow PUSH Coalition, several

⁷ *Id.* at 7-8.

⁸ See U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE RESIDENT POPULATION FOR SELECTED AGE GROUPS BY SEX FOR THE UNITED STATES, STATES, COUNTIES, AND PUERTO RICO COMMONWEALTH AND MUNICIPIOS: APRIL 1, 2010 TO JULY 1, 2013 (2013), *available at* <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited Sept. 15, 2014) (as of July, 2013 there are 65 million millennials, or those aged 20-34).

⁹ BUREAU OF LABOR STATISTICS, EMPLOYMENT PROJECTIONS – 2012-2022 at 3 (2013), *available at* <http://www.bls.gov/news.release/pdf/ecopro.pdf> (last visited Sept. 15, 2014).

¹⁰ See, e.g. Kyung M. Song, *Microsoft Push for Worker Visas Raises Concerns, exposes loopholes*, THE SEATTLE TIMES (Nov. 24, 2012), *available at* http://seattletimes.com/html/localnews/2019758596_microsoftvisa25m.html (last visited Sept. 15, 2014) (“Microsoft is so eager to find qualified engineers and programmers for its thousands of vacancies that it has offered to pay a bounty to the government in exchange for extra visas in order to import more foreign workers.”)

¹¹ *Id.* (“Researchers claim that some companies use the visas to bypass older, more expensive American job seekers. And some economists question contentions by Microsoft and other technology firms about a dearth of domestic high-tech talent.”)

¹² Incredibly, “[t]hree of four, or 74%, of students earning a bachelor’s degree in science, technology, engineering and math ... don’t work in STEM jobs.” Wendy Koch, *Jesse Jackson: Tech Diversity is the next Civil Rights Step*, USA Today, July 29, 2014.

technology companies have released data showing what many in the civil rights community have known for some time: the technology sector is overwhelmingly comprised of white and Asian males, in both tech and non-tech occupations.¹³ Google's workforce is comprised of 70% men and 30% women.¹⁴ For tech occupations at Google, 17% are comprised of women, with 83% comprised of men.¹⁵ With respect to race and ethnicity, Google reports just 2% and 3% of its overall workforce are black or Hispanic, respectively, compared to 61% for whites and 30% for Asians.¹⁶ Google's non-tech workforce is 65% white and 23% Asian.¹⁷ Other technology companies report similar demographics. For example, Twitter reports a workforce that is 70% male, 2% black and 3% Latino.¹⁸ Facebook's workforce is 69% male, 57% white, 34% Asian and just 2% black and 4% Hispanic.¹⁹ And while Oakland, CA-based Pandora, the music streaming service, has an overall workforce comprised of 50.8% women and 49.2% men, in tech roles the percentages are 82.1% and 17.9%, respectively, and its racial and ethnic composition is 70.9% white, 12.3% Asian, 7.2% Latino, and 3% black.²⁰

With the laudable exception of Asian American male participation, these statistics closely resemble the statistics of the broadcasting industry in the late 1960's.²¹ The broadcasting

¹³ See Rev. Jesse Jackson and Rainbow PUSH Coalition Statement on Pandora's Decision to Release its Workforce Data, July 15, 2014 ("The tech industry is perhaps the worst industry in the nation when it comes to inclusion that locks out Blacks and Latinos from participation and opportunity" (emphasis in original)).

¹⁴ GOOGLE OFFICIAL BLOG, GETTING TO WORK ON DIVERSITY AT GOOGLE (May 28, 2014) available at <http://googleblog.blogspot.com/2014/05/getting-to-work-on-diversity-at-google.html> (last visited Sept. 15, 2014).

¹⁵ *Id.*; see also Gail Sullivan, *Google Statistics Show Silicon Valley has a Diversity Problem*, Washington Post, May 29, 2014 (describing statistics for women, who comprise 30% of Google's employees worldwide, 17% for the company's tech sector, and 21% of leadership positions; asking, *inter alia*, "why are there so few women in leadership roles? And what accounts for their high attrition rate?")

¹⁶ *Id.*

¹⁷ *Id.* Rainbow PUSH reports that 70% of Silicon Valley jobs are not tech positions. See Jesse Jackson has Silicon Valley's Number, Crain's Business/Chicago, August 6, 2014.

¹⁸ Janet Van Huysse, *Building a Twitter we can be proud of*, TWITTER BLOG (July 23, 2014) <https://blog.twitter.com/2014/building-a-twitter-we-can-be-proud-of> (last visited Sept. 15, 2014).

¹⁹ Maxine Williams, *Building a More Diverse Facebook*, FACEBOOK NEWSROOM (June 25, 2014), <http://newsroom.fb.com/news/2014/06/building-a-more-diverse-facebook/> (last visited Sept. 15, 2014).

²⁰ Pandora Careers Website, <http://www.pandora.com/careers/#diversity> (last visited Sept. 15, 2014).

²¹ See Jason Lagria, NO, VOLOKH: ASIAN IS NOT THE NEW WHITE | AAPI VOICES AAPIVOICES.COM (2014), <http://aapivoices.com/stem-aapi-not-white/> (last visited Sept. 14, 2014). The article includes a more detailed treatment on the issue of Asian American participation in Silicon Valley.

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industry's extremely poor statistical record was a major factor motivating the FCC to adopt its original broadcast EEO rules.²² These statistics were alarming then and, in today's information-based society, they should be even more alarming today. The digital divide cannot be closed when a sixth of the economy so profoundly and uniformly excludes African Americans, Latinos and women from equal employment opportunity.

As the media, telecommunications, and technology sectors converge, diversity in all of these sectors increasingly falls within the inner penumbra of the Commission's authority. Thus we look forward to working with the Commission to ensure that the full benefits of technology, and the opportunities it enables, are readily available to all Americans.

Sincerely,

A handwritten signature in black ink, appearing to read "David Honig". The signature is fluid and cursive, with a large initial "D" and "H".

David Honig
President

Attachment (Exhibit A: Workforce by Gender and Ethnicity)

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²² See *Nondiscrimination in the Employment Practices of Broadcast Licensees (MO&O and NPRM)*, 13 FCC2d 766 (1968) (proscribing racial and gender discrimination in broadcast employment) and *Petition for Rulemaking to Require Broadcast Licensees to Show Nondiscrimination in their Employment Practices (R&O)*, 18 FCC2d 240 (1969) (adopting broadcast EEO outreach requirements).

Exhibit A

Workforce By Gender and Ethnicity															
#	Name of Firm	Time Period (Global Staff)	By Gender			By Ethnicity									
			Male	Female	Gender Undisclosed	White	Asian	Hispanic	Black	Two Or More Races	Other/Not Disclosed	Native Hawaiian/Other API	Amer. Indian/Alaska Native	Undeclared	
1	Apple	August 2014	70.0%	30.0%	-	55.0%	15.0%	11.0%	7.0%	2.0%	2.0%	1.0%	-	-	9.0%
2	Yahoo	June 2014	62.0%	37.0%	1.0%	50.0%	39.0%	4.0%	2.0%	2.0%	2.0%	2.0%	-	-	-
3	Google	January 2014	70.0%	30.0%	-	61.0%	30.0%	3.0%	2.0%	4.0%	>1%	>1%	-	-	-
4	Facebook	June 2014	69.0%	31.0%	-	57.0%	34.0%	4.0%	2.0%	3.0%	0.0%	0.0%	-	-	-
5	LinkedIn	June 2014	61.0%	39.0%	-	53.0%	38.0%	4.0%	2.0%	2.0%	>1%	>1%	-	-	-
6	Twitter	June 2014	70.0%	30.0%	-	59.0%	29.0%	3.0%	2.0%	3.0%	2.0%	2.0%	1.0%	>1%	-
7	Ebay	June 2014	58.0%	42.0%	-	61.0%	24.0%	5.0%	7.0%	1.0%	1.0%	1.0%	-	-	-
8	Pandora Overall	August 2014	50.8%	49.2%	-	70.9%	12.3%	7.2%	3.0%	5.7%	-	-	1.0%	-	-
	-	Pandora Tech Roles	82.1%	17.9%	-	62.1%	26.0%	3.9%	2.8%	4.9%	-	-	0.4%	-	-
Sources:															
Wendy, K. (2014, July 28). Jesse Jackson Seeks EEOC Scrutiny of Tech Industry. USA Today. Com. News Site. Retrieved from http://www.usatoday.com/story/tech/2014/07/28/jesse-jackson-seeks-eeoc-scrutiny-of-tech-industry/13270991/ (last visited August 2014)															
Pandora. (2014, August). Diversity at Pandora. Pandora Com. Company Webpage. Retrieved from http://www.pandora.com/careers/#diversity (last visited August 25, 2014)															