

*Before the*  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Promoting Diversification of Ownership in the Broadcasting Services	)	MB Docket No. 07-294
	)	
Amendment of Part I of the Commission’s Rules, Concerning Practice and Procedure, Amendment of CORES Registration System	)	MD Docket No. 10-234

**COMMENTS**

The Office of Communication of the United Church of Christ, Inc., Media Alliance, Benton Foundation,<sup>1</sup> Common Cause, Communications Workers of America, Media Council Hawai`i, and Prometheus Radio Project (collectively, “UCC *et al.*”), by their counsel, the Institute for Public Representation, respectfully submit these comments in response to the Seventh Notice of Proposed Rulemaking in the above-referenced proceeding.<sup>2</sup>

UCC *et al.* support the adoption of the proposed Restricted Use FCC Registration Numbers (“RUFNRNs”). The FCC must implement the RUFNRN proposal prior to the 2015 Form 323 filing deadline to avoid collecting unreliable data yet again. The FCC should discontinue the use of the interim Special Use FCC Registration Numbers (“SUFNRNs”) entirely because their continued use undermines the accuracy of the media ownership data.

**I. Background**

UCC *et al.* have long argued that the FCC must collect accurate broadcast ownership data. The Third Circuit Court of Appeals has also expressed the importance of collecting and analyzing accurate data.<sup>3</sup> The FCC currently collects that data through Form 323. However,

---

<sup>1</sup> The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation, and unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

<sup>2</sup> *Promoting Diversification of Ownership in the Broadcasting Services*, Seventh Further Notice of Proposed Rulemaking, MB Docket No. 07-294 (Feb. 12, 2015) (“*Seventh Further Notice*”).

<sup>3</sup> *Prometheus Radio Project v. FCC*, 652 F.3d. 431, 472 (3d Cir. 2011).

there are problems with the form. For instance, the data the FCC collects is inaccurate because the registration numbers used to identify broadcast owners are not connected to specific individuals. The CORES FRN was the FCC's first attempt to solve the accuracy problem. The CORES FRN is tied to an individual's social security number ("SSN") to ensure accurate individual identification, which in turn allows the FCC and the public to study broadcast ownership over time. Because some broadcasters complained about having to disclose their owners' SSNs, the FCC also created SUFRNs as a stopgap measure. SUFRNs do not require owners to divulge their SSN and are not attached to any specific individual. SUFRNs generally defeat the FCC's ability to study broadcast ownership over time. The SUFRN stopgap measure has ballooned. Now, thirty percent of all unique FRNs are SUFRNs. To make matters worse, the data still cannot be aggregated and searched as the FCC promised six years ago in the 2009 Fourth Diversity NPRM.<sup>4</sup>

Some broadcasters simply do not file Form 323 at all, contrary to Bureau instructions.<sup>5</sup> UCC *et al.* encourages the FCC to fix this problem as well. The broadcast ownership data must be accurate *and comprehensive* in order to accomplish the FCC's goals of studying and analyzing ownership trends.<sup>6</sup> These pitfalls have made the ownership data unreliable and longitudinal analysis difficult.

While the CORES FRN system is a superior solution, UCC *et al.* also support the use of RUFNRNs because they are good enough for identifying individuals and allowing longitudinal analysis. The FCC must implement this system prior to the 2015 Form 323 filing deadline.

## **II. The FCC should implement RUFNRNs as soon as possible.**

UCC *et al.* support the proposal to use RUFNRNs for identifying broadcast station owners. This requirement is long overdue and the FCC cannot allow yet another filing deadline to go by

---

<sup>4</sup> *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Fourth Further Notice of Proposed Rulemaking, 24 FCC Rcd 5896, 5903 (2009).

<sup>5</sup> UCC *et al.* Comments, MB Dkt. 14-50, Aug. 6, 2014 (indicating a low response rate from radio stations and low-power and Class A TV stations).

<sup>6</sup> *Seventh Further Notice*, at ¶1.

while it collects inaccurate data. This process has already taken six years. In 2009, the FCC first proposed CORES FRNs. In 2011, the Third Circuit told the FCC to improve its data collection process “within the course of the Commission’s 2010 Quadrennial Review of its media ownership rules.”<sup>7</sup> It is now 2015. The FCC should not delay any longer. The new requirement must be implemented well before the filing deadline for this year’s Form 323, especially because broadcasters will need time to gather the information needed to comply.

The FCC asks whether RUFNRs will be reliable.<sup>8</sup> RUFNRs should be sufficiently effective for the FCC’s data collection purpose because the numbers will uniquely identify individuals and are unlikely to be duplicated. To make a system of identification numbers function, it is necessary to assign a unique number to each individual. Using SSNs is the most effective way to achieve that aim because each person has a unique SSN. Alternatively, the last four digits of the SSN and the date of birth together allow for a vast amount of potential combinations. For every year’s worth of birth dates, there are 3.65 million potential unique combinations.<sup>9</sup> Given the range of ages of broadcast owners and that there are only 30,592 stations in the United States,<sup>10</sup> it is unlikely that any SSN/date-of-birth duplicates will arise. The combination of the last four digits of the SSN and a full date of birth will suffice for broadcast ownership data.

### **III. The FCC should discontinue SUFRNs.**

The FCC asks whether it should discontinue using SUFRNs.<sup>11</sup> Because RUFNRs address the privacy concerns of broadcasters and are more accurate than SUFRNs, the FCC should discontinue SUFRNs. SUFRNs have introduced inaccuracy and uncertainty into media

---

<sup>7</sup> *Prometheus Radio Project v. FCC*, 652 F.3d. 431, 472 (3d Cir. 2011).

<sup>8</sup> *Seventh Further Notice*, at ¶23.

<sup>9</sup> This is determined by multiplying the number of potential final four digits (roughly 10,000) by the number of days in a year.

<sup>10</sup> *Broadcast Station Totals as of December 31, 2014*, Jan. 7, 2015, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-331381A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-331381A1.pdf).

<sup>11</sup> *Seventh Further Notice*, ¶33.

ownership data. While not officially permitted, some owners have been assigned multiple SUFRNs and some SUFRNs represent multiple owners across multiple years.<sup>12</sup> The FCC even knows its data collection is inadequate and its attempts since 2009 to fix those inadequacies have stalled.<sup>13</sup> In the intervening time, the FCC, the public, and researchers have been denied data necessary to assess the effect of the media ownership rules. The 2015 biennial reporting period is the next opportunity for the FCC to improve its data, and discontinuing SUFRNs will help accomplish that goal.

#### **IV. The FCC should use its enforcement authority to require compliance with Form 323 and RUFNRs.**

As identified above, many broadcasters do not file Form 323. Similarly, many broadcast owners continue to use SUFRNs, which undermine the validity and accuracy of the FCC's media ownership data. The FCC should use its enforcement authority, including license revocations, to require compliance with these obligations. It is no secret that broadcasters must disclose information to the FCC in order to continue holding a license. Form 323 and collection of ownership data comes with the territory of owning a station license. Anyone not willing to comply should be subject to the FCC's enforcement power and may not be qualified to own a license. Without enforcement, broadcasters and their owners have little incentive to file accurate information or even file at all, as evidenced by the current state of Form 323 compliance and SUFRN use. The FCC would do itself and the public a disservice by allowing broadcaster owners to continue to evade these filing requirements.

UCC *et al.* also support the FCC's proposal to require broadcasters to disclose previously assigned SUFRNs to help the FCC revitalize old, inaccurate data.<sup>14</sup> With such a high percentage of broadcasters using unreliable SUFRNs in recent years, much of the FCC's current data cannot serve as a basis for studying ownership over time. Requiring disclosure of SUFRNs is a simple

---

<sup>12</sup> *Id.* at ¶9.

<sup>13</sup> *Id.* at ¶3.

<sup>14</sup> *Id.* at ¶20.

solution to that problem. The FCC should similarly use its enforcement authority against broadcasters it finds did not accurately disclose previously assigned SUFRNs.

### **Conclusion**

UCC *et al.* support the FCC's proposal to adopt RUFRNs because it will improve the quality and reliability of broadcast ownership data. Discontinuing use of SUFRNs will further improve the data. The FCC should make the requisite changes with time to spare before the next Form 323 deadline.

Respectfully submitted,

/s/

---

Eric G. Null  
Angela J. Campbell  
Andrew Jay Schwartzman  
Institute for Public Representation  
Georgetown University Law Center  
600 New Jersey Avenue, NW  
Suite 312  
Washington, DC 20001  
(202) 662-9535

Of counsel:

Thomas A. Ball  
Georgetown Law Student

Dated: March 30, 2015

*Counsel for UCC et al.*