

**MINORITY MEDIA AND
TELECOMMUNICATIONS COUNCIL**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

David Earl Honig, Executive Director
Phone: (202) 332-7005 Fax: (202) 332-7511

October 12, 1999

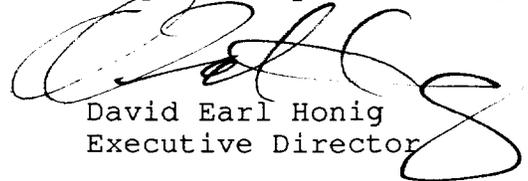
Hon. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Dear Ms. Salas:

RE: MM Docket Nos. 91-221 and 87-8: Response to
Public Notice FCC 99-240 (Processing Order for
Applications Filed Pursuant to the Commission's
New Local Broadcast Ownership Rules)

On behalf of the Minority Media and Telecommuni-
cations Council ("MMTC"), transmitted herewith are
the original and four copies of our Reply Comments.

Respectfully submitted,



David Earl Honig
Executive Director

Enclosures

cc: Vicki Phillips
Chief, Legal Branch
Policy and Rules Division
FCC Mass Media Bureau
445 12th St. S.W.
Washington, D.C. 20554

/dh

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

In the Matter of)
)
Processing Order for Applications) MM Docket Nos. 99-221
Filed Pursuant to the Commission's New) and 87-8
Local Broadcast Ownership Rules) (Response to Public
) Notice FCC 99-240)

TO THE COMMISSION

**REPLY COMMENTS OF THE MINORITY
MEDIA AND TELECOMMUNICATIONS COUNCIL**

The Minority Media and Telecommunications Council ("MMTC") respectfully submits these Reply Comments.^{1/}

The Commission finds itself in the very rare position of having rendered a rulemaking proposal, only to find it endorsed by no one. No commenter endorsed the type of lottery proposed in the Public Notice. Indeed, no commenter suggested that the Commission must consign the order of the processing queue to chance.

Furthermore, no commenter contended that the Commission is powerless to employ public interest factors to referee the courthouse race. Four commenters suggested such factors, although they disagreed on what the factors should be.^{2/}

In selecting a processing paradigm, the Commission should avoid even appearing to tilt in favor of any of the interested parties which will undoubtedly join the race to the courthouse. Fortunately, MMTC, which will sit out any race to any courthouse,

^{1/} The views expressed in these Comments are the institutional views of MMTC, and do not necessarily reflect the individual views of each of its officers, directors or members.

^{2/} See generally Comments of Tribune Broadcasting Company, Comments of Sinclair Broadcast Group, Inc., Comments of Paxson Communications Corporation, and Comments of the Office of Communication of the United Church of Christ et al.

has offered a paradigm that would not inherently disadvantage any party.^{3/}

Moreover, none of the commenters has ever argued that the Commission can do nothing to help SDBs, and many of them have long supported such efforts to promote diversity. And among the various proposals, MMTC's proposal promotes diversity in the simplest, most straightforward way, and it would have real impact.^{4/} Under our proposal, the courthouse queue would be ordered by prospective actions within the power of applicants, rather than by applicant attributes that are essentially immutable. MMTC's proposal asks what applicants will do, not who they are.

We agree with Commissioner Tristani that "this is not an exact science."^{5/} Fortunately, as Commissioner Powell has observed, the government often regulates on subjects that defy precise definition or quantification.^{6/} MMTC's proposal does not depend on a precise definition or exact measurement of diversity. It grants a bump-up for any good faith proposal to sell a reasonable-sized station or

^{3/} If MMTC's proposal is thought by any party to place it at an inherent disadvantage, such an outcome was unintended. MMTC welcomes proposed modifications to improve its proposal.

^{4/} It will break ties in some markets and pare down the number of tied parties in other markets. Where ties remain, it would use a non-random, business-related test -- first to contract -- to complete the queue.

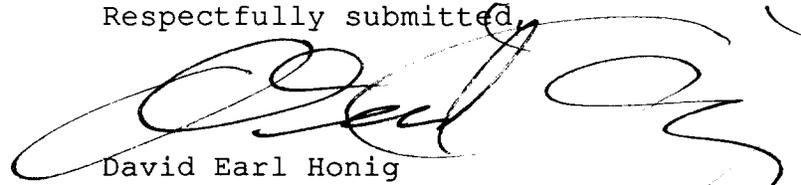
^{5/} Review of the Commission's Regulations Governing Television Broadcasting (Report and Order), FCC 99-209 (August 6, 1999) at 90 (Statement of Commissioner Gloria Tristani).

^{6/} "I agree that diversity is very hard to define....Yet, not all worthy policy goals, not all important government interests, and indeed, not all compelling government interests, can be quantified or measured with precision." Id. at 85 (Separate Statement of Commissioner Michael K. Powell).

stations to an SDB, to find such a station and then sell it to an SDB, or to finance the sale of such a station to an SDB. Thus MMTC's proposal assumes only that some SDB television ownership is more likely to promote diversity than no SDB ownership. The Commission may not know the precise ingredients for the perfect diversity stew; that recipe may be unknowable. But we all can agree that some food is better than starvation.

Not much time remains. Fortunately, there were only ten commenting parties. It shouldn't be hard for the Commission to round them up, put them in a room and figure this out.

Respectfully submitted,



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