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February 29, 2000

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**EX PARTE**

Ms. Magalie R. Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
TW-A325  
Washington, DC 20554

Re: **CS Docket No. 98-120**

Dear Ms. Salas:

Enclosed for filing in the above-captioned docket is a letter sent today by Joseph Lawson, President, NAMIC, Inc. to Chairman William E. Kennard regarding digital television broadcast stations.

Respectfully submitted,



Kathy A. Johnson  
Executive Director, NAMIC

Enclosure

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The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S. W.  
Washington, D. C. 20554

Re: Carriage of the Transmissions of Digital Television  
Broadcast Stations, CS Docket No. 98-120

Dear Chairman Kennard:

On behalf of NAMIC, Inc. (the National Association of Minorities in Communications), I am writing to express our concern about the Commission's proposed rule-making proceeding regarding mandatory carriage of new digital broadcast signals by cable television systems. We believe that such rules would seriously jeopardize existing cable program networks, particularly those that serve the unique needs of ethnic and racial minorities. And we believe they would have a devastating effect on the development and growth of new cable program services struggling to find an outlet in a highly competitive video marketplace.

Founded in 1980, NAMIC is a national organization of telecommunications professionals with 16 chapters in major cities across the country. Its objective is to promote workforce diversity in all aspects of the telecommunications industry, particularly hiring and promotion, professional development, programming, ownership and procurement. Among its many activities, NAMIC conducts an annual urban markets conference, a national mentoring program, an annual leadership training forum, and a series of screening events to promote high quality, original cable programming reflecting the diverse cultures in our society.

The Commission has had a long-standing commitment to diversity. As it recently stated in its EEO decision, "it has long been a basic tenet of national communications policy" that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."<sup>1</sup>

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<sup>1</sup>Review of the Commission's Broadcast and Cable Equal Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding, Report and Order, released February 2, 2000, quoting *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) (quoting *United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27). See also 47 U.S.C. section 521(4).

Requiring cable systems to carry every broadcast station's analog channel and duplicative digital channel runs counter to this important public policy goal. It will reduce the availability of diverse viewpoints and will discourage new speakers from entering the cable industry both now and in the future.

As the record in this proceeding makes clear, cable systems do not have unlimited channel capacity. If digital must carry rules are adopted, most cable customers will lose valuable programming services that would have to be dropped in order to make room for duplicative digital broadcast channels. Cable networks with smaller viewing audiences, such as those reaching typically unserved or underserved communities, are likely to be the most vulnerable. Even as cable systems increase channel capacity through upgrades and other technological advancements, there are literally hundreds of national and regional program services and a wide range of other services that will vie for carriage. A policy which guarantees new channel space to digital broadcasters – ahead of every cable network – is simply unfair and inconsistent with promoting diversity in editorial control and content.

The Commission has recognized the fragile nature of fledgling programming services and taken steps to promote new entrants into the video marketplace. Cable carriage is critical to cable networks because, unlike broadcast stations, they have no over-the-air outlet to reach consumers. In order to become viable, new networks must achieve a certain level of cable penetration. Imposing digital must carry on cable operators on top of analog must carry requirements will surely limit opportunities for new and innovative networks to gain the carriage needed to survive.

At a time when the communications industry is experiencing a decline in minority-owned businesses and the broadcast networks are airing fewer programs representing the full breadth of American culture, NAMIC believes that digital must carry regulation will be a set-back in cable television's provision of highly diverse programming and information.

We believe that the American public will be best served by letting marketplace negotiations and consumer demand dictate digital broadcast carriage decisions. We urge the Commission not to adopt digital must carry rules.

Sincerely yours,



Joseph Lawson  
President, NAMIC, Inc.

cc: The Honorable Susan Ness  
The Honorable Harold Furchtgott-Roth  
The Honorable Michael K. Powell  
The Honorable Gloria Tristani  
Deborah Lathen, Chief, Cable Services Bureau  
Roy Stewart, Chief, Mass Media Bureau